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1ST SESSION

H. R. 3128

IN THE SENATE OF THE UNITED STATES

NOVEMBER 7 (legislative day, NOVEMBER 4), 1985

Received; read twice and referred to the Committee on Finance

AN ACT

To make changes in spending and revenue provisions for purposes of deficit reduction and program improvement, consistent with the budget process.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the “Def-
5 icit Reduction Amendments of 1985”.

6 (b) **TABLE OF CONTENTS.**—

Title I. Health care programs.

Title II. Trade and customs laws amendments.

Title III. Provisions relating to aid to families with dependent children.

Title IV. Provisions relating to railroad unemployment repayment tax and unemployment compensation.

Title V. Revenue provisions.

Title VI. Amendments relating to single employer plans.

TITLE I—HEALTH CARE PROGRAMS

SEC. 100. SHORT TITLE; TABLE OF CONTENTS OF TITLE.

This title may be cited as the “Medicare and Medicaid Budget Reconciliation Amendments of 1985”.

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1 **PART A—CHANGES RELATING PRIMARILY TO PART**
2 **A OF THE MEDICARE PROGRAM**

3 **Subpart 1—Hospital Payment Rates**

4 **SEC. 101. RATE OF INCREASE IN PAYMENTS FOR INPATIENT**
5 **HOSPITAL SERVICES.**

6 (a) **SETTING APPLICABLE PERCENTAGE AT ONE PER-**
7 **CENT.**—The second sentence of section 1886(b)(3)(B) of the
8 Social Security Act (42 U.S.C. 1395ww(b)(3)(B)) is amended
9 to read as follows: “Notwithstanding the previous sentence
10 or subsection (e), for purposes of subparagraph (A) for cost
11 reporting periods beginning during fiscal year 1986 and for
12 purposes of subsection (d)(3)(A) for discharges occurring
13 during that fiscal year, the applicable percentage increase
14 shall be one percent.”.

15 (b) **APPLICATION TO DRG PAYMENT SYSTEM.**—Sec-
16 tion 1886(d)(3)(A) of such Act is amended by striking out
17 “for fiscal year 1985” and inserting in lieu thereof “for each
18 of fiscal years 1985 and 1986”.

19 (c) **NO SECRETARIAL DISCRETION FOR FISCAL YEAR**
20 **1986.**—Section 1886(e)(4) of such Act is amended by strik-
21 ing out “1986” and inserting in lieu thereof “1987”.

22 **SEC. 102. ONE-YEAR EXTENSION OF DRG TRANSITION.**

23 (a) **MAINTAINING CURRENT BLEND FOR ONE YEAR.**—
24 Section 1886(d)(1) of the Social Security Act (42 U.S.C.
25 1395ww(d)(1)) is amended by striking out “1985” and

1 “1986” and inserting in lieu thereof “1986” and “1987”,
2 respectively, each place either appears.

3 (b) EFFECTIVE DATE.—The amendments made by sub-
4 section (a) shall apply to cost reporting periods, and dis-
5 charges in fiscal years, beginning on or after October 1,
6 1985.

7 SEC. 103. APPLICATION OF REVISED HOSPITAL WAGE INDEX.

8 (a) APPLICATION OF REVISED INDEX PROSPECTIVE-
9 LY.—(1) Subsection (b) of section 2316 of the Deficit Reduc-
10 tion Act of 1984 (Public Law 98-369; 98 Stat. 1081) is
11 amended to read as follows:

12 “(b) The Secretary shall adjust the payment amounts for
13 hospitals for discharges occurring during fiscal year 1986 to
14 reflect the changes the Secretary has proposed (in the Feder-
15 al Register on June 10, 1985) in regulations respecting the
16 hospital wage index under section 1886(d)(3)(E) of the Social
17 Security Act, as that proposal relates to the use of total gross
18 hospital wages. For discharges occurring after September 30,
19 1986, the Secretary shall provide for such periodic adjust-
20 ments in the appropriate wage index used under that section
21 as may be necessary, taking into account changes in the
22 wage differences of full-time and part-time workers.”.

23 (2) The amendment made by paragraph (1) shall be ef-
24 fective as if it had been included in the Deficit Reduction Act
25 of 1984.

1 (b) STUDY OF METHODOLOGY FOR AREA WAGE AD-
 2 JUSTMENT FOR CENTRAL CITIES.—(1) The Secretary of
 3 Health and Human Services, in consultation with the Pro-
 4 spective Payment Assessment Commission, shall collect in-
 5 formation and shall develop one or more methodologies to
 6 permit the adjustment of the wage indices used for purposes
 7 of sections 1886(d)(2)(C)(ii), 1886(d)(2)(H), and 1886(d)(3)(E)
 8 of the Social Security Act, in order to more accurately reflect
 9 hospital labor markets, by taking into account variations in
 10 wages and wage-related costs between the central city por-
 11 tion of urban areas and other parts of urban areas.

12 (2) The Secretary shall report to Congress on the infor-
 13 mation collected and the methodologies developed under
 14 paragraph (1) not later than May 1, 1986. The report shall
 15 include a recommendation as to the feasibility and desirability
 16 of implementing such methodologies.

17 **SEC. 104. CHANGE IN FORMULA FOR INDIRECT TEACHING AD-**
 18 **JUSTMENT.**

19 (a) SUBSTITUTION OF NEW FORMULA.—Section
 20 1886(d)(5)(B) of the Social Security Act (42 U.S.C.
 21 1395ww(d)(5)(B)) is amended—

22 (1) by inserting “(i)” after “(B)”,

23 (2) in the first sentence—

(A) by inserting “for discharges occurring during fiscal years 1984 and 1985” after “except that”, and

(B) by inserting before the period at the end the following: “, and except that for discharges for fiscal years after fiscal year 1985 the payment amount shall be determined by multiplying (I) the sum of the amount determined under paragraph (1)(A)(ii)(II) (or, if applicable, the amount determined under paragraph (1)(A)(iii)) and the amount paid to the hospital under subparagraph (A), by (II) the indirect teaching adjustment factor described in clause (ii)”, and

(3) by adding at the end the following new clause:

“(ii) For purposes clause (i)(II), the indirect teaching adjustment factor for discharges occurring—

“(I) during fiscal years 1986 and 1987, is equal to $2 \times [(1+r)^{\circ} - 1]$, where ‘r’ is the ratio of the hospital’s full-time equivalent interns and residents (including those assigned to outpatient departments of the hospital) to beds and ‘°’ is .405, or

“(II) after fiscal year 1987, is equal to $1.5 \times [(1+r)^{\circ} - 1]$, where ‘r’ is the same as ‘r’ under subclause (I) and ‘°’ is .5795.”.

1 (b) ADJUSTMENT OF PAYMENT AMOUNTS.—

2 (1) RESTANDARDIZING DRG PAYMENT AMOUNTS
3 TO REFLECT CHANGE IN FORMULA.—Section
4 1886(d)(2)(C)(i) of such Act is amended by inserting
5 “(taking into account, for discharges occurring after
6 September 30, 1985, the amendments made by section
7 104(a) of the Medicare and Medicaid Budget Reconcili-
8 ation Amendments of 1985)” after “medical education
9 costs”.

10 (2) PROVIDING FOR SYSTEM SAVINGS FROM
11 CHANGE IN FORMULA.—Subparagraph (C) of section
12 1886(d)(3) of such Act is amended—

13 (A) by inserting “(i)” after “(C)”,

14 (B) by inserting “FOR FISCAL YEAR 1985”
15 after “NEUTRALITY”,

16 (C) by striking out “The Secretary” and in-
17 serting in lieu thereof “For discharges occurring
18 in fiscal year 1985, the Secretary”, and

19 (D) by adding at the end the following new
20 clause:

21 “(ii) REDUCING FOR SAVINGS FROM AMENDMENT
22 TO INDIRECT TEACHING ADJUSTMENT FOR SUBSE-
23 QUENT FISCAL YEARS.—For discharges occurring
24 after fiscal year 1985, the Secretary shall further
25 reduce each of the average standardized amounts (in a

1 proportion which takes into account the differing ef-
2 fects of the standardization effected under paragraph
3 (2)(C)(i) so as to provide for a reduction in the total of
4 the payments (attributable to this paragraph) made for
5 discharges occurring during—

6 “(i) each of fiscal years 1986 and 1987, of
7 an amount equal to the estimated reduction in the
8 additional payment amounts under paragraph
9 (5)(B) that would have resulted from the enact-
10 ment of the amendments made by section 104 of
11 the Medicare and Medicaid Budget Reconciliation
12 Amendments of 1985 if the factor described in
13 clause (ii)(II) of paragraph (5)(B) were applied for
14 each respective fiscal year instead of the factor
15 described in clause (ii)(I) of that paragraph, and

16 “(ii) each fiscal year thereafter, of an amount
17 equal to the estimated reduction in the additional
18 payment amounts under paragraph (5)(B) for that
19 fiscal year that has resulted from the enactment of
20 the amendments made by section 104 of the Med-
21 icare and Medicaid Budget Reconciliation Amend-
22 ments of 1985.”.

23 (3) CONFORMING AMENDMENT.—Clauses (i)(I)
24 and (ii)(I) of section 1886(d)(3)(D) of such Act are each

1 amended by inserting “or reduced” after “(B), and
2 adjusted”.

3 SEC. 105. COMPUTATION OF ADDITIONAL PAYMENT AMOUNTS
4 FOR HOSPITALS SERVING A DISPROPORTION-
5 ATE SHARE OF LOW-INCOME PATIENTS.

6 (a) REQUIRING ADJUSTMENT.—Section 1886(d)(5) of
7 the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amend-
8 ed by adding at the end the following new subparagraph:
9 “(F)(i) The Secretary shall provide under this subpara-
10 graph, for discharges occurring during fiscal years 1986 and
11 1987, for an additional payment amount, for discharges oc-
12 ccurring in a cost reporting period of a hospital, for a subsec-
13 tion (d) hospital that is located in an urban area, that has 100
14 or more beds, and that—

15 “(I) serves a significantly disproportionate number
16 of patients who have low income (as defined in clause
17 (iv)(I)), or

18 “(II) can demonstrate that its net inpatient care
19 revenues (excluding any of such revenues attributable
20 to this title or State plans approved under title XIX)
21 during the cost reporting period for indigent care from
22 State and local government sources exceed 30 percent
23 of its total of such revenues during the period.

24 “(ii) The amount of such payment for each discharge
25 shall be the amount determined under paragraph (1)(A)(ii)(II)

1 (or, if applicable, the amount determined under paragraph
2 (1)(A)(iii)) for that discharge multiplied by the disproportion-
3 ate share adjustment percentage established under clause (iii)
4 for the cost reporting period in which the discharge occurs.

5 “(iii) The disproportionate share adjustment percentage
6 for a cost reporting period—

7 “(I) for a hospital described in clause (i)(II) is
8 equal to 16 percent, and

9 “(II) for other hospitals is equal to seven-tenths of
10 the excess low income patient percentage (as defined in
11 clause (iv)(IV)) for that period,

12 but in no case may the percentage for any hospital for any
13 period exceed 16 percent.

14 “(iv) In this subparagraph:

15 “(I) A hospital ‘serves a significantly dispropor-
16 tionate number of patients who have low income’ for a
17 cost reporting period if the hospital has a low income
18 patient percentage (as defined in subclause (II)) for
19 that period which equals, or exceeds, 15 percent.

20 “(II) The term ‘low income patient percentage’
21 means, with respect to a cost reporting period of a hos-
22 pital, the percentage of its total number of patient days
23 of inpatient hospital services it provided during period
24 which are attributable to low income patients (as de-
25 fined in subclause (III)).

1 “(III) The term ‘low income patient’ means, with
2 respect to inpatient hospital services provided to a pa-
3 tient, a patient who was, or is determined to have
4 been, entitled to medical assistance under title XIX
5 with respect to some or all of such services during the
6 hospital stay, and includes such an individual notwith-
7 standing the fact that some or all of such services were
8 actually paid for under this title.

9 “(IV) The term ‘excess low income patient per-
10 centage’ means, for a cost reporting of a hospital, the
11 hospital’s low income patient percentage (as defined in
12 subclause (II)) for that period minus 15 percent.”.

13 (b) RESTANDARDIZING DRG PAYMENT AMOUNTS TO
14 REFLECT DISPROPORTIONATE SHARE PAYMENTS.—Sec-
15 tion 1886(d)(2)(C) of such Act is amended—

16 (1) by striking out “and” at the end of clause (ii),

17 (2) by striking out the period at the end of clause

18 (iii) and inserting in lieu thereof “, and”, and

19 (3) by adding at the end the following new clause:

20 “(iv) for discharges occurring during fiscal
21 years 1986 and 1987, excluding an estimate of
22 the additional payments to certain hospitals to be
23 made under paragraph (5)(F).”.

1 **SEC. 106. TREATMENT OF CERTAIN RURAL OSTEOPATHIC HOS-**
2 **PITALS AS RURAL REFERRAL CENTERS.**

3 (a) **IN GENERAL.**—Section 1886(d)(5)(C)(i) of the Social
4 Security Act (42 U.S.C. 1395ww(d)(5)(C)(i)) is amended by
5 inserting before the period at the end of the second sentence
6 the following: “and which shall not require a rural osteopath-
7 ic hospital to have more than 3,000 discharges in a year in
8 order to be classified as a rural referral center”.

9 (b) **EFFECTIVE DATE.**—The amendment made by sub-
10 section (a) shall apply to cost reporting periods beginning on
11 or after the date of the enactment of this Act.

12 **SEC. 107. ONE-YEAR PROHIBITION ON FREEZING COST IN-**
13 **CREASES THAT MAY BE RECOGNIZED FOR**
14 **DIRECT MEDICAL EDUCATION.**

15 (a) **RULE.**—The Secretary of Health and Human Serv-
16 ices may not implement any regulation that would limit,
17 under the authority of section 1861(v) of the Social Security
18 Act, the costs that may be recognized as reasonable under
19 title XVIII of that Act with respect to the net costs of ap-
20 proved educational activities for a cost reporting period based
21 upon the net costs of those activities for any previous cost
22 reporting period.

23 (b) **EFFECTIVE PERIOD.**—The prohibition of subsection
24 (a) shall apply to the cost reporting periods beginning during
25 the one-year period beginning on July 1, 1985.

1 SEC. 108. RETURN ON EQUITY CAPITAL FOR INPATIENT HOS-
2 PITAL SERVICES AND OTHER SERVICES.

3 (a) INPATIENT HOSPITAL SERVICES.—(1) Section
4 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1))
5 is amended by adding at the end the following new
6 subparagraph:

7 “(P) Such regulations may not provide for any payment,
8 with respect to the reasonable costs of inpatient hospital
9 services, for a return on equity capital for hospitals.”.

10 (2) Section 1886(g) of such Act (42 U.S.C. 1395ww(g))
11 is amended—

12 (A) by striking out “(1)” after “(g)”, and

13 (B) by striking out paragraph (2).

14 (b) OTHER SERVICES.—(1) Section 1861(v)(1)(P) of
15 such Act, as added by subsection (a)(1), is amended by insert-
16 ing “(i)” after “(P)” and by adding at the end the following
17 new clause:

18 “(ii) If such regulations provide for the payment for a
19 return on equity capital, the rate of return to be recognized,
20 for determining the reasonable cost of services furnished in a
21 cost reporting period, shall be equal to the average of the
22 rates of interest, for each of the months any part of which is
23 included in the period, on obligations issued for purchase by
24 the Federal Hospital Insurance Trust Fund.”.

25 (2) Section 1861(v)(1)(B) of such Act (42 U.S.C.
26 1395x(v)(1)(B)) is amended—

(A) by striking out “any fiscal period” and “such fiscal period” and inserting in lieu thereof “any cost reporting period” and “the period”, respectively, and

(B) by striking out “not exceed one and one-half times” in the second sentence and inserting in lieu thereof “be equal to”.

(c) **EFFECTIVE DATES.**—(1) The amendments made by subsection (a) shall apply to payments made, on the basis of reasonable cost, for hospital cost reporting periods beginning on or after October 1, 1986. Costs attributable to a return on equity capital shall not be included in determining national and regional adjusted DRG prospective payment rates (under section 1886(d) of the Social Security Act) for discharges occurring on or after October 1, 1986.

(2) The amendments made by subsection (b) shall apply to cost reporting periods beginning on or after October 1, 1985.

**SEC. 109. CONTINUATION OF MEDICARE REIMBURSEMENT
WAIVERS FOR CERTAIN HOSPITALS SUBJECT
TO REGIONAL HOSPITAL REIMBURSEMENT
DEMONSTRATIONS.**

For purposes of section 1886(c) of the Social Security Act (including paragraph (4) thereof), a hospital reimbursement control system which, on January 1, 1985, was carrying out a demonstration under a contract which had been

1 approved by the Secretary of Health and Human Services
2 under section 222(a) of the Social Security Amendments of
3 1972 shall be deemed (as of the date of the enactment of this
4 Act) to meet the requirements of section 1886(c)(1)(A) of the
5 Social Security Act if the system applies—

6 (1) to substantially all non-Federal acute care hos-
7 pitals (as defined by the Secretary for purposes of that
8 section) in the geographic area served by the system
9 on January 1, 1985; and

10 (2) to the review of at least 75 percent—

11 (A) of all revenues or expenses in such geo-
12 graphic area for inpatient hospital services, and

13 (B) of revenues or expenses in the geograph-
14 ic area for inpatient hospital services provided
15 under the applicable State plan approved under
16 title XIX of the Social Security Act.

17 **SEC. 110. FOUR-YEAR TEST FOR STATE WAIVERS FOR CER-**
18 **TAIN STATES.**

19 (a) **IN GENERAL.**—Section 1886(c) of the Social Securi-
20 ty Act (42 U.S.C 1395ww(c)) is amended by adding at the
21 end the following new paragraph:

22 “(7) In the case of a State which made a request under
23 paragraph (5) before December 31, 1984, for the approval of
24 a State hospital reimbursement control system and which re-
25 quest was approved—

“(A) in applying paragraphs (1)(C) and (6), a reference to a ‘36-month period’ is deemed a reference to as ‘48-month period’, and

“(B) in order to allow the State the opportunity to provide the assurances described in paragraph (1)(C) for a 48-month period, the Secretary may not discontinue payments under the system, under the authority of paragraph (3)(A) because the Secretary has reason to believe that such assurances are not being (or will not be) met, before July 1, 1986.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

**SEC. 111. SPECIAL RULE FOR TREATMENT OF DEPRECIATION
AND CAPITAL INDEBTEDNESS FOR DONATIONS
OF STATE PROPERTY TO NON-PROFIT CORPORATIONS.**

(a) **GENERAL RULE.**—Section 1861(v)(1)(O) of the Social Security Act (42 U.S.C. 1395x(v)(1)(O)) is amended—

(1) by inserting “, except as provided in clause (iv),” in clause (i) after “such regulations shall provide”, and

(2) by adding at the end the following new clause:

“(iv) In the case of the transfer of a hospital or skilled nursing facility from ownership by a State to ownership by a

1 non-profit corporation without monetary consideration, clause
2 (i) shall be applied without regard to the acquisition cost of
3 the hospital or facility to the new owner.”.

4 (b) EFFECTIVE DATE.—The amendments made by sub-
5 section (a) shall be applied as though they were included in
6 the Deficit Reduction Act of 1984.

7 **SEC. 112. REPORT ON IMPACT OF OUTLIER AND TRANSFER**
8 **POLICY ON RURAL HOSPITALS.**

9 (a) REVIEW.—The Secretary of Health and Human
10 Services shall review the impact of policies respecting out-
11 liers and patient transfers on payments under section 1886(d)
12 of the Social Security Act to rural hospitals (particularly on
13 rural hospitals with less than 100 beds).

14 (b) REPORT.—The Secretary shall report to Congress
15 on the findings of the review not later than May 1, 1986, and
16 shall include in the report recommendations on changes in
17 policies respecting outliers and patient transfers to the extent
18 they adversely affect rural hospitals.

19 **SEC. 113. INFORMATION ON IMPACT OF PPS PAYMENTS ON**
20 **HOSPITALS.**

21 (a) DISCLOSURE OF INFORMATION.—The Secretary of
22 Health and Human Services shall make available to the Pro-
23 spective Payment Assessment Commission, the Congression-
24 al Budget Office, and to the Committee on Ways and Means
25 of the House of Representatives and the Committee on Fi-

1 nance of the Senate the most current information on the pay-
 2 ments being made under section 1886 of the Social Security
 3 Act to individual hospitals. Such information shall be made
 4 available in a manner that permits examination of the impact
 5 of such section on hospitals.

6 (b) **CONFIDENTIALITY.**—Information disclosed under
 7 subsection (a) shall be treated as confidential and shall not be
 8 subject to further disclosure in a manner that permits the
 9 identification of individual hospitals.

10 **Subpart 2—Benefits, Coverage, Premiums, and Provider**
 11 **Agreements**

12 **SEC. 121. EXTENSION AND PAYMENT FOR HOSPICE CARE.**

13 (a) **ELIMINATION OF SUNSET.**—Section 122(h)(1) of
 14 the Tax Equity and Fiscal Responsibility Act of 1982 (P.L.
 15 97-248, 96 Stat. 362), relating to the end of the effective
 16 date for hospice care, is amended—

17 (1) in subparagraph (A)—

18 (A) by striking out “(h)(1)(A) Subject to sub-
 19 paragraph (B), the” and inserting in lieu thereof
 20 “(h)(1) The”, and

21 (B) by striking out “, and before October 1,
 22 1986”, and

23 (2) by striking out subparagraph (B).

24 (b) **INCREASE IN PAYMENT OF DAILY RATES FOR**
 25 **HOSPICE CARE FOR FISCAL YEAR 1986.**—(1) Subpara-

1 graph (B) of section 1814(i)(1) of the Social Security Act (42
2 U.S.C. 1395f(i)(1)) is amended to read as follows:

3 “(B) Notwithstanding subparagraph (A) and for hospice
4 care furnished on or after October 1, 1985, the daily rate of
5 payment per day for routine home care shall be \$63.17 and
6 the daily rate of payment for other services included in hos-
7 pice care shall be the daily rate of payment recognized under
8 subparagraph (A) as of July 1, 1985, increased by \$10.”.

9 (2) Subparagraph (C) of such section is amended by
10 striking out “1985” and inserting in lieu thereof “1986”.

11 **SEC. 122. LIMITING THE PENALTY FOR LATE ENROLLMENT IN**

12 **PART A.**

13 (a) **LIMITING PENALTY TO 10 PERCENT AND TWICE**
14 **THE PERIOD DURING WHICH NOT ENROLLED.**—Section
15 1818(c) of the Social Security Act (42 U.S.C. 1395i-2(c)) is
16 amended—

17 (1) by striking out “and” at the end of paragraph
18 (5),

19 (2) by striking out the period at the end of para-
20 graph (6) and inserting in lieu thereof “; and”, and

21 (3) by adding at the end the following new
22 paragraph:

23 “(7) any percent increase effected under section
24 1839(b) in an individual’s monthly premium may not
25 exceed 10 percent and shall only apply to premiums

1 paid during a period equal to twice the number of
2 months in the full 12-month periods described in that
3 section.”.

4 (b) EFFECTIVE DATE.—(1) The amendment made by
5 subsection (a)(3) shall apply to premiums paid for months be-
6 ginning with January 1986.

7 (2) In applying that amendment, months (before, during,
8 or after January 1986) in which an individual was required to
9 pay a premium increased under the section that was so
10 amended shall be taken into account in determining the
11 month in which the premium will no longer be subject to an
12 increase under that section as so amended.

13 **SEC. 123. MEDICARE COVERAGE OF, AND APPLICATION OF**
14 **HOSPITAL INSURANCE TAX TO, NEWLY HIRED**
15 **STATE AND LOCAL GOVERNMENT EMPLOYEES.**

16 (a) APPLICATION OF HOSPITAL INSURANCE TAX TO
17 NEWLY HIRED EMPLOYEES OF STATE AND LOCAL GOV-
18 ERNMENTS.—

19 (1) IN GENERAL.—Subsection (u) of section 3121
20 of the Internal Revenue Code of 1954 (relating to ap-
21 plication of hospital insurance tax to Federal employ-
22 ment) is amended to read as follows:

23 “(u) APPLICATION OF HOSPITAL INSURANCE TAX TO
24 FEDERAL, STATE, AND LOCAL EMPLOYMENT.—

1 “(1) FEDERAL EMPLOYMENT.—For purposes of
2 the taxes imposed by sections 3101(b) and 3111(b),
3 subsection (b) shall be applied without regard to para-
4 graph (5) thereof.

5 “(2) STATE AND LOCAL EMPLOYMENT.—For
6 purposes of the taxes imposed by sections 3101(b) and
7 3111(b)—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraphs (B) and (C), subsection (b) shall be
10 applied without regard to paragraph (7) thereof.

11 “(B) EXCEPTION FOR CERTAIN SERV-
12 ICES.—Service shall not be treated as employ-
13 ment by reason of subparagraph (A) if—

14 “(i) the service is included under an
15 agreement under section 218 of the Social
16 Security Act, or

17 “(ii) the service is performed—

18 “(I) by an individual who is em-
19 ployed by a State or political subdivi-
20 sion thereof to relieve him from unem-
21 ployment,

22 “(II) in a hospital, home, or other
23 institution by a patient or inmate there-
24 of as an employee of a State or political

subdivision thereof or of the District of Columbia,

“(III) by an individual, as an employee of a State or political subdivision thereof or of the District of Columbia, serving on a temporary basis in case of fire, storm, snow, earthquake, flood or other similar emergency, or

“(IV) by any individual as an employee included under section 5351(2) of title 5, United States Code (relating to certain interns, student nurses, and other student employees of hospitals of the District of Columbia Government), other than as a medical or dental intern or a medical or dental resident in training.

As used in this subparagraph, the terms ‘State’ and ‘political subdivision’ have the meanings given those terms in section 218(b) of the Social Security Act.

“(C) EXCEPTION FOR CURRENT EMPLOYMENT WHICH CONTINUES.—Service performed for an employer shall not be treated as employment by reason of subparagraph (A) if—

1 “(i) such service would be excluded
2 from the term ‘employment’ for purposes of
3 this chapter if subparagraph (A) did not
4 apply;

5 “(ii) such service is performed by an
6 individual—

7 “(I) who was performing substan-
8 tial and regular service for remunera-
9 tion for that employer before January 1,
10 1986,

11 “(II) who is a bona fide employee
12 of that employer on December 31,
13 1985, and

14 “(III) whose employment relation-
15 ship with that employer was not en-
16 tered into for purposes of meeting the
17 requirements of this subparagraph; and

18 “(iii) the employment relationship with
19 that employer has not been terminated after
20 December 31, 1985.

21 “(D) TREATMENT OF AGENCIES AND IN-
22 STRUMENTALITIES.—For purposes of subpara-
23 graph (C), under regulations—

24 “(i) All agencies and instrumentalities of
25 a State (as defined in section 218(b) of the

1 Social Security Act) or of the District of Co-
2 lumbia shall be treated as a single employer.

3 “(ii) All agencies and instrumentalities
4 of a political subdivision of a State (as so de-
5 fined) shall be treated as a single employer
6 and shall not be treated as described in
7 clause (i).

8 “(3) MEDICARE QUALIFIED GOVERNMENT EM-
9 PLOYMENT.—For purposes of this chapter, the term
10 ‘medicare qualified government employment’ means
11 service which—

12 “(A) is employment (as defined in subsection
13 (b)) with the application of paragraphs (1) and (2),
14 but

15 “(B) would not be employment (as so
16 defined) without the application of such
17 paragraphs.”

18 (2) CONFORMING AMENDMENTS.—

19 (A)(i) Section 3125 of such Code (relating to
20 returns in the case of governmental employees in
21 Guam, American Samoa, and the District of Co-
22 lumbia) is amended by redesignating subsections
23 (a), (b), and (c) as subsections (b), (c), and (d), re-
24 spectively, and by inserting before subsection (b)
25 (as so redesignated) the following new subsection:

1 “(a) STATES.—Except as otherwise provided in this
 2 section, in the case of the taxes imposed by sections 3101(b)
 3 and 3111(b) with respect to service performed in the employ
 4 of a State or any political subdivision thereof (or any instru-
 5 mentality of any one or more of the foregoing which is wholly
 6 owned thereby), the return and payment of such taxes may
 7 be made by the head of the agency or instrumentality having
 8 the control of such service, or by such agents as such head
 9 may designate. The person making such return may, for con-
 10 venience of administration, make payments of the tax im-
 11 posed under section 3111 with respect to the service of such
 12 individuals without regard to the contribution and benefit
 13 base limitation in section 3121(a)(1).”

14 (ii) The section heading for such section
 15 3125 is amended by inserting “STATES,”
 16 before “GUAM”.

17 (iii) The item relating to section 3125 in the
 18 table of sections for subchapter C of chapter 21 of
 19 such Code is amended by inserting “States,”
 20 before “Guam”.

21 (B) Subsection (b) of section 1402 of such
 22 Code is amended by striking out “medicare quali-
 23 fied Federal employment (as defined in section
 24 3121(u)(2))” and inserting in lieu thereof “medi-

1 care qualified government employment (as defined
2 in section 3121(u)(3))”.

3 (C) Section 3122 of such Code (relating to
4 Federal service) is amended by striking out “in-
5 cluding service which is medicare qualified Feder-
6 al employment (as defined in section 3121(u)(2))”
7 and inserting in lieu thereof “including such serv-
8 ice which is medicare qualified government em-
9 ployment (as defined in section 3121(u)(3))”.

10 (D) Subsection (a) of 6205 of such Code (re-
11 lating to special rules applicable to certain em-
12 ployment taxes) is amended by adding at the end
13 thereof the following new paragraph:

14 “(5) STATES AND POLITICAL SUBDIVISIONS AS
15 EMPLOYER.—For purposes of this subsection, in the
16 case of remuneration received from a State or any po-
17 litical subdivision thereof (or any instrumentality of any
18 one or more of the foregoing which is wholly owned
19 thereby) during any calendar year, each head of an
20 agency or instrumentality, and each agent designated
21 by either, who makes a return pursuant to section
22 3125 shall be deemed a separate employer.”

23 (E)(i) Section 6413(a) of such Code (relating
24 to adjustment of certain employment taxes) is

1 amended by adding at the end thereof the follow-
2 ing new paragraph:

3 “(5) STATES AND POLITICAL SUBDIVISIONS AS
4 EMPLOYER.—For purposes of this subsection, in the
5 case of remuneration received from a State or any po-
6 litical subdivision thereof (or any instrumentality of any
7 one or more of the foregoing which is wholly owned
8 thereby) during any calendar year, each head of an
9 agency or instrumentality, and each agent designated
10 by either, who makes a return pursuant to section
11 3125 shall be deemed a separate employer.”

12 (ii) Section 6413(c)(2) of such Code (relating
13 to special refunds of certain employment taxes) is
14 amended—

15 (I) by striking out “3125(a)”,
16 “3125(b)”, and “3125(c)” in subparagraphs
17 (D), (E), and (F), respectively, and inserting
18 in lieu thereof “3125(b)”, “3125(c)”, and
19 “3125(d)”, respectively, and

20 (II) by adding at the end thereof the
21 following new subparagraph:

22 “(G) EMPLOYEES OF STATES AND POLITI-
23 CAL SUBDIVISIONS.—In the case of remuneration
24 received from a State or any political subdivision
25 thereof (or any instrumentality of any one or more

of the foregoing which is wholly owned thereby) during any calendar year, each head of an agency or instrumentality, and each agent designated by either, who makes a return pursuant to section 3125(a) shall, for purposes of this subsection, be deemed a separate employer.”

(b) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(1) REVISION OF DEFINITION OF MEDICARE QUALIFIED GOVERNMENT EMPLOYMENT.—Section 210(p) of the Social Security Act (42 U.S.C. 410(p)) is amended to read as follows:

“Medicare Qualified Government Employment

“(p)(1) For purposes of sections 226 and 226A, the term ‘medicare qualified government employment’ means any service which would constitute ‘employment’ as defined in subsection (a) of this section but for the application of the provisions of—

“(A) subsection (a)(5), or

“(B) subsection (a)(7), except as provided in paragraphs (2) and (3).

“(2) Service shall not be treated as employment by reason of paragraph (1)(B) if the service is performed—

1 “(A) by an individual who is employed by a State
2 or political subdivision thereof to relieve him from un-
3 employment,

4 “(B) in a hospital, home, or other institution by a
5 patient or inmate thereof as an employee of a State or
6 political subdivision thereof or of the District of
7 Columbia,

8 “(C) by an individual, as an employee of a State
9 or political subdivision thereof or of the District of Co-
10 lumbia, serving on a temporary basis in case of fire,
11 storm, snow, earthquake, flood or other similar emer-
12 gency, or

13 “(D) by any individual as an employee included
14 under section 5351(2) of title 5, United States Code
15 (relating to certain interns, student nurses, and other
16 student employees of hospitals of the District of Co-
17 lumbia Government), other than as a medical or dental
18 intern or a medical or dental resident in training.

19 As used in this paragraph, the terms ‘State’ and ‘political
20 subdivision’ have the meanings given those terms in section
21 218(b).

22 “(3) Service performed for an employer shall not be
23 treated as employment by reason of paragraph (1)(B) if—

1 “(A) such service would be excluded from the
2 term ‘employment’ for purposes of this section if para-
3 graph (1)(B) did not apply;

4 “(B) such service is performed by an individual—

5 “(i) who was performing substantial and reg-
6 ular service for remuneration for that employer
7 before January 1, 1986,

8 “(ii) who is a bona fide employee of that em-
9 ployer on December 31, 1985, and

10 “(iii) whose employment relationship with
11 that employer was not entered into for purposes
12 of meeting the requirements of this subparagraph;
13 and

14 “(C) the employment relationship with that em-
15 ployer has not been terminated after December 31,
16 1985.

17 “(4) For purposes of paragraph (3), under regulations
18 (consistent with regulations established under section
19 3121(u)(2)(D) of the Internal Revenue Code of 1954)—

20 “(A) all agencies and instrumentalities of a State
21 (as defined in section 218(b)) or of the District of Co-
22 lumbia shall be treated as a single employer, and

23 “(B) all agencies and instrumentalities of a politi-
24 cal subdivision of a State (as so defined) shall be treat-

ed as a single employer and shall not be treated as described in subparagraph (A).”.

(2) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(A) FOR INDIVIDUALS AGE 65 OR OLDER AND FOR DISABLED INDIVIDUALS.—Section 226 of such Act (42 U.S.C. 426) is amended by striking out “medicare qualified Federal employment” in subsections (a)(2)(C)(i) and (b)(2)(C)(ii)(I) and inserting in lieu thereof “medicare qualified government employment”.

(B) FOR INDIVIDUALS WITH END-STAGE RENAL DISEASE.—Section 226A(a) of such Act (42 U.S.C. 426-1(a)) is amended by striking out “medicare qualified Federal employment” in paragraphs (1)(A)(ii) and (1)(B)(iii) and inserting in lieu thereof “medicare qualified government employment”.

(C) CONFORMING AMENDMENTS.—

(i) Section 1811 of such Act (42 U.S.C. 1395c) is amended by striking out “Federal employment” in clauses (1) and (2) and inserting in lieu thereof “government employment”.

1 (ii) Section 226(g) of such Act (42
2 U.S.C. 426(g)) is amended by striking out
3 “medicare qualified Federal employment”
4 and inserting in lieu thereof “medicare quali-
5 fied government employment by virtue of
6 service described in section 210(a)(5)”.

7 (c) EFFECTIVE DATES.—

8 (1) HOSPITAL INSURANCE TAXES.—The amend-
9 ments made by subsection (a) shall apply to services
10 performed after December 31, 1985.

11 (2) MEDICARE COVERAGE.—

12 (A) IN GENERAL.—The amendments made
13 by subsection (b) shall be effective after December
14 31, 1985, and the amendments made by para-
15 graph (3) of that subsection shall apply to services
16 performed (for medicare qualified government em-
17 ployment) after that date.

18 (B) TREATMENT OF CERTAIN DISABIL-
19 ITIES.—For purposes of establishing entitlement
20 to hospital insurance benefits under part A of title
21 XVIII of the Social Security Act pursuant to the
22 amendments made by subsection (b), no individual
23 may be considered to be under a disability for any
24 period beginning before January 1, 1986.

1 SEC. 124. RESPONSIBILITIES OF MEDICARE HOSPITALS IN
2 EMERGENCY CASES.

3 (a) REQUIREMENT OF MEDICARE HOSPITAL PROVID-
4 ER AGREEMENTS.—Section 1866(a)(1) of the Social Security
5 Act (42 U.S.C. 1395cc(a)(1)) is amended—

6 (1) by striking out “and” at the end of subpara-
7 graph (G),

8 (2) by striking out the period at the end of sub-
9 paragraph (H) and inserting in lieu thereof “, and”,
10 and

11 (3) by inserting after subparagraph (H) the follow-
12 ing new subparagraph:

13 “(I) in the case of a hospital, to comply with
14 the requirements of section 1867 to the extent
15 applicable.”.

16 (b) REQUIREMENTS.—Title XVIII of such Act is
17 amended by inserting after section 1866 the following new
18 section:

19 “EXAMINATION AND TREATMENT FOR EMERGENCY
20 MEDICAL CONDITIONS AND WOMEN IN ACTIVE LABOR

21 “SEC. 1867. (a) MEDICAL SCREENING REQUIRE-
22 MENT.—In the case of a hospital that has a hospital emer-
23 gency department, if any individual (whether or not eligible
24 for benefits under this title) comes to the emergency depart-
25 ment and a request is made on the individual’s behalf for
26 examination or treatment for a medical condition, the hospital

1 must provide for an appropriate medical screening examina-
2 tion to determine whether or not an emergency medical con-
3 dition (within the meaning of subsection (e)(1)) exists or to
4 determine if the individual is in active labor (within the mean-
5 ing of subsection (e)(2)).

6 “(b) NECESSARY STABILIZING TREATMENT FOR
7 EMERGENCY MEDICAL CONDITIONS AND ACTIVE LABOR.—

8 If any individual (whether or not eligible for benefits under
9 this title) comes to a hospital and the hospital determines that
10 the individual has an emergency medical condition or is in
11 active labor, the hospital must provide either—

12 “(1) within the staff and facilities available at the
13 hospital, for such further medical examination and such
14 treatment as may be required to stabilize the medical
15 condition or to provide for treatment of the labor,
16 unless the examination or treatment is refused, or

17 “(2) for transfer of the patient to another medical
18 facility in accordance with subsection (c).

19 “(c) RESTRICTING TRANSFERS UNTIL PATIENT STA-
20 BILIZED.—

21 “(1) RULE.—If a patient at a hospital has an
22 emergency medical condition which has not been stabi-
23 lized (within the meaning of subsection (e)(4)(B)) or is
24 in active labor, the hospital may not transfer the pa-
25 tient unless—

1 “(A) a physician (within the meaning of sec-
2 tion 1861(r)(1)) has signed a certification that,
3 based upon the reasonable risks and benefits to
4 the patient, and based upon the information avail-
5 able at the time, the benefits reasonably expected
6 from the provision of appropriate medical treat-
7 ment at another medical facility outweigh the in-
8 creased risks to the individual’s medical condition
9 from effecting the transfer, and

10 “(B) the transfer is an appropriate transfer
11 (within the meaning of paragraph (2)) to that
12 facility.

13 “(2) APPROPRIATE TRANSFER.—An appropriate
14 transfer to a medical facility is a transfer—

15 “(A) in which the receiving facility—

16 “(i) has available space and qualified
17 personnel for the treatment of the patient,
18 and

19 “(ii) has agreed to accept transfer of the
20 patient and to provide appropriate medical
21 treatment, and

22 “(iii) is being provided appropriate med-
23 ical records (or copies thereof) of the exami-
24 nation and treatment effected at the transfer-
25 ring facility;

1 “(B) in which the transferring hospital pro-
2 vides the receiving facility with appropriate medi-
3 cal records (or copies thereof) of the examination
4 and treatment effected at the transferring hospital;

5 “(C) in which the transfer is effected through
6 qualified personnel and transportation equipment,
7 including the use of medically appropriate life sup-
8 port measures during the transfer; and

9 “(D) which meets such other requirements as
10 the Secretary may find necessary in the interest
11 of the health and safety of patients transferred.

12 “(d) ENFORCEMENT.—

13 “(1) AS REQUIREMENT OF MEDICARE PROVIDER
14 AGREEMENT.—Failure of a hospital to meet the re-
15 quirements of this section subjects the hospital to ter-
16 mination of its medicare provider agreement under this
17 title, in accordance with section 1866(b).

18 “(2) CIVIL MONETARY PENALTIES.—In addition
19 to the other grounds for imposition of a civil money
20 penalty under section 1128A(a), a participating hospi-
21 tal that knowingly violates a requirement of this sec-
22 tion and the responsible physician in the hospital with
23 respect to such a violation are each subject, under that
24 section, to a civil money penalty of not more than
25 \$25,000 for each such violation. As used in the previ-

1 ous sentence, the term 'responsible physician' means,
2 with respect to a hospital's violation of a requirement
3 of this section, a physician who—

4 “(A) is employed by, or under contract with,
5 the participating hospital, and

6 “(B) acting as such an employee or under
7 such a contract, has professional responsibility for
8 the provision of examinations or treatments for
9 the individual, or transfers of the individual, with
10 respect to which the violation occurred.

11 “(3) CIVIL ENFORCEMENT.—Any individual who
12 suffers personal harm and any medical facility which
13 suffers a financial loss as a direct result of a participat-
14 ing hospital's violation of a requirement of this section
15 may, in a civil action against the participating hospital,
16 obtain damages and other appropriate relief. No action
17 may be brought under this paragraph more than two
18 years after the date of the violation with respect to
19 which the action is brought.

20 “(e) DEFINITIONS.—In this section:

21 “(1) The term 'emergency medical condition'
22 means a medical condition manifesting itself by acute
23 symptoms of sufficient severity (including severe pain)
24 such that the absence of immediate medical attention
25 could reasonably be expected to result in—

“(A) placing the patient’s health in serious jeopardy,

“(B) serious impairment to bodily functions, or

“(C) serious dysfunction of any bodily organ or part.

“(2) The term ‘active labor’ means labor at a time at which—

“(A) delivery is imminent,

“(B) there is inadequate time to effect safe transfer to another hospital, or

“(C) a transfer may pose a threat of the health and safety of the patient or the unborn child.

“(3) The term ‘participating hospital’ means hospital that has entered into a provider agreement under section 1866 and has, under the agreement, obligated itself to comply with the requirements of this section.

“(4)(A) The term ‘to stabilize’ means, with respect to a medical condition, to provide such medical treatment of the condition as may be necessary to assure that no material deterioration of the condition is likely to result from the transfer of the individual from a facility.

1 “(B) The term ‘stabilized’ means, with respect to
2 a medical condition, that no material deterioration of
3 the condition is likely to result from the transfer of the
4 individual from a facility.

5 “(5) The term ‘transfer’ means the movement (in-
6 cluding the discharge) of a patient outside a hospital’s
7 facilities at the direction of any person employed by (or
8 affiliated or associated, directly or indirectly, with) the
9 hospital, but does not include such a movement of a
10 patient who (A) has been declared dead, or (B) leaves
11 the facility without the permission of any such person.

12 “(f) PREEMPTION.—The provisions of this section do
13 not preempt any State or local law requirement respecting
14 hospitals, except to the extent that the requirement directly
15 conflicts with a requirement of this section.”.

16 (c) EFFECTIVE DATE.—The amendments made by this
17 section shall take effect on October 1, 1985.

18 **PART B—CHANGES RELATING TO PARTS A AND B**
19 **OF THE MEDICARE PROGRAM**

20 **SEC. 131. EXTENSION OF WORKING AGED PROVISIONS TO IN-**
21 **DIVIDUALS OVER 69.**

22 (a) EXTENSION OF MEDICARE AS SECONDARY
23 PAYOR.—Section 1862(b)(3)(A) of the Social Security Act
24 (42 U.S.C. 1395y(b)(3)(A)) is amended—

(1) in clause (i), by striking out “who is under 70 years of age during any part of such month” and “, if the spouse is under 70 years of age during any part of such month”, and

(2) in clause (iii), by striking out “and ending with the month before the month in which such individual attains the age of 70”.

(b) EXTENSION OF ANTI-DISCRIMINATION PROVISIONS.—

(1) Section 4(g)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(g)(1)) is amended by striking out “through 69” and inserting in lieu thereof “or older” each place it appears.

(2) Section 12(a) of such Act (29 U.S.C. 631(a)) is amended by inserting “(except the provisions of section 4(g))” after “Act”.

(c) CONFORMING AMENDMENTS.—

(1) SPECIAL ENROLLMENT PERIOD.—Paragraph (3) of section 1837(i) of the Social Security Act (42 U.S.C. 1395p(i)(3)) is amended to read as follows:

“(3) The special enrollment period referred to in paragraphs (1) and (2) is the period beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv)

1 by reason of current employment and ending seven months
2 later.”.

3 (2) EFFECTIVE DATE OF ENROLLMENT.—Subsec-
4 tion (e) of section 1838 of the Social Security Act (42
5 U.S.C. 1395q) is amended to read as follows:

6 “(e) Notwithstanding subsection (a), in the case of an
7 individual who enrolls during a special enrollment period pur-
8 suant to section 1837(i)(3)—

9 “(1) in the first month of the special enrollment
10 period, the coverage period shall begin on the first day
11 of that month, or

12 “(2) in a month after the first month of the special
13 enrollment period, the coverage period shall begin on
14 the first day of the month following the month in
15 which the individual so enrolls.”

16 (d) EFFECTIVE DATES.—(1) The amendments made by
17 subsection (a) shall apply with respect to items and services
18 furnished on or after January 1, 1986.

19 (2) The amendments made by subsection (b) shall
20 become effective on January 1, 1986.

21 (3) The amendments made by subsection (c) shall take
22 effect on January 1, 1986, but shall not apply to any individ-
23 ual with respect to whom a special enrollment period under
24 section 1837(i)(3) began before that date.

1 SEC. 132. PROVISIONS RELATING TO HEALTH MAINTENANCE
2 ORGANIZATIONS AND COMPETITIVE MEDICAL
3 PLANS.

4 (a) FINANCIAL RESPONSIBILITY FOR PATIENTS HOS-
5 PITALIZED ON THE EFFECTIVE DATE OF AN ENROLLMENT
6 OR DISENROLLMENT.—(1) Subsection (c) of section 1876 of
7 the Social Security Act (42 U.S.C. 1395mm) is amended by
8 adding at the end the following new paragraph:

9 “(7) A risk-sharing contract under this section shall pro-
10 vide that in the case of an individual who is receiving inpa-
11 tient hospital services from a subsection (d) hospital (as de-
12 fined in section 1886(d)(1)(B)) as of the effective date of the
13 individual’s—

14 “(A) enrollment with an eligible organization
15 under this section—

16 “(i) payment for such services until the date
17 of the individual’s discharge shall be made under
18 this title as if the individual were not enrolled
19 with the organization,

20 “(ii) the organization shall not be financially
21 responsible for payment for such services until the
22 date after the date of the individual’s discharge,
23 and

24 “(iii) the organization shall nonetheless be
25 paid the full amount otherwise payable to the or-
26 ganization under this section; or

1 “(B) termination of enrollment with an eligible or-
2 organization under this section—

3 “(i) the organization shall be financially re-
4 sponsible for payment for such services after such
5 date and until the date of the individual’s dis-
6 charge,

7 “(ii) payment for such services during the
8 stay shall not be made under section 1886(d), and

9 “(iii) the organization shall not receive any
10 payment with respect to the individual under this
11 section during the period the individual is not en-
12 rolled.”.

13 (2) Subsection (a)(3) of such section is amended by strik-
14 ing out “Payments” and inserting in lieu thereof “Subject to
15 subsection (c)(7), payments”.

16 (3) Subsection (a)(6) of such section is amended by strik-
17 ing out “If” and inserting in lieu thereof “Subject to subsec-
18 tion (c)(7), if”.

19 (b) DISENROLLMENTS.—

20 (1) EFFECTIVE DATE.—Subsection (c)(3)(B) of
21 such section is amended by striking out “a full calen-
22 dar month after” and inserting in lieu thereof “the date
23 on which”.

24 (2) INFORMATION.—Such subsection is further
25 amended by adding at the end the following: “In the

1 case of an individual's termination of enrollment, the
2 organization shall provide the individual with a copy of
3 the written request for termination of enrollment and a
4 written explanation of the period (ending on the effec-
5 tive date of the termination) during which the individ-
6 ual continues to be enrolled with the organization and
7 may not receive benefits under this title other than
8 through the organization.”.

9 (c) REVIEW OF MARKETING MATERIAL.—Subsection

10 (c)(3)(C) of such section is amended by adding at the end the
11 following: “No brochures, application forms, or other promo-
12 tional or informational material may be distributed by an or-
13 ganization to (or for the use of) individuals eligible to enroll
14 with the organization under this section unless (i) at least 45
15 days before its distribution, the organization has submitted
16 the material to the Secretary for review and (ii) the Secretary
17 has not disapproved the distribution of the material. The Sec-
18 retary shall review all such material submitted and shall dis-
19 approve such material if the Secretary determines, in the
20 Secretary's discretion, that the material is materially inaccu-
21 rate or misleading or otherwise makes a material misrepre-
22 sentation.”.

23 (d) PROMPT PUBLICATION OF AAPCC.—Subsection

24 (a)(1)(A) of such section is amended by inserting after “The
25 Secretary shall annually determine” the following: “, and

1 shall publish not later than September 7 before the calendar
2 year concerned”.

3 (e) EFFECTIVE DATES.—

4 (1) FINANCIAL RESPONSIBILITY.—The amend-
5 ments made by subsection (a) shall apply to enroll-
6 ments and disenrollments that become effective on or
7 after October 1, 1985.

8 (2) DISENROLLMENTS.—The amendments made
9 by subsection (b) shall apply to requests for termination
10 of enrollment submitted on or after October 1, 1985.

11 (3) MATERIAL REVIEW.—(A) The amendment
12 made by subsection (c) shall not apply to material
13 which has been distributed before October 1, 1985.

14 (B) Such amendment also shall not apply so as to
15 require the submission of material which is distributed
16 before November 15, 1985.

17 (C) Such amendment shall also not apply to mate-
18 rial which the Secretary determines has been prepared
19 before the date of the enactment of this Act and for
20 which a commitment for distribution has been made, if
21 the application of such amendment would constitute a
22 hardship for the organization involved.

23 (4) PUBLICATION.—The amendment made by
24 subsection (d) shall apply to determinations of per
25 capita rates of payment for 1987 and subsequent years.

(5) NECESSARY MODIFICATION OF CONTRACTS.—The Secretary of Health and Human Services shall provide for such changes in the risk-sharing contracts which have been entered into under section 1876 of the Social Security Act as may be necessary to conform to the requirements imposed by the amendments made by this section on a timely basis.

SEC. 133. EVALUATION OF PREADMISSION AND PRE-PROCEDURE CERTIFICATION PROGRAMS.

(a) EFFECTIVENESS OF 100 PERCENT REVIEW.—The Secretary of Health and Human Services shall evaluate the relative effectiveness of peer review organizations that require preadmission certification of 100 percent of elective inpatient surgical procedures with other peer review organizations that require such certification of a lesser percentage of such procedures.

(b) FEASIBILITY OF PRE-PROCEDURE CERTIFICATION FOR OUTPATIENT SURGICAL PROCEDURES.—The Secretary also shall evaluate the feasibility of extending the pre-procedure certification activities of peer review organizations to cover elective surgical procedures conducted in outpatient and ambulatory care settings. In doing the evaluation, the Secretary shall consider the extent to which entities with contracts with the Secretary under section 1842 of the Social Security Act and other entities might perform such activities

1 more efficiently and effectively than peer review
2 organizations.

3 (c) REPORT.—The Secretary shall report to Congress,
4 not later than December 31, 1986, on the results of the eval-
5 uations conducted under this section.

6 (d) DEFINITIONS.—In this section, the term “peer
7 review organization” means a utilization and quality control
8 peer review organization with a contract under part B of title
9 XI of the Social Security Act.

10 **SEC. 134. PROHIBITION OF ADMINISTRATIVE MERGER OF**
11 **RENAL DISEASE NETWORKS WITH OTHER OR-**
12 **GANIZATIONS.**

13 The Secretary of Health and Human Services may not
14 provide for the merger of any renal disease network (estab-
15 lished under section 1881(c) of the Social Security Act) into a
16 utilization and quality control peer review organization (with
17 a contract under part B of title IX of such Act) or another
18 entity without express statutory authorization.

19 **SEC. 135. EXTENSION OF CERTAIN MEDICARE MUNICIPAL**
20 **HEALTH SERVICES DEMONSTRATION**
21 **PROJECTS.**

22 The Secretary of Health and Human Services shall
23 extend, for a period of three additional years, approval of
24 three municipal health services demonstration projects (locat-

1 ed in Cincinnati, Milwaukee, and San Jose) authorized under
2 section 402(a) of the Social Security Amendments of 1967.

3 **SEC. 136. TECHNICAL CORRECTIONS.**

4 (a) **WORKING AGED TECHNICAL CORRECTIONS.—**

5 (1) **PREMIUM PENALTY.**—The second sentence of
6 section 1839(b) of the Social Security Act (42 U.S.C.
7 1395r(b)), as amended by section 2338(a) of the Deficit
8 Reduction Act of 1984, is amended by striking out
9 “months in which” and all that follows through
10 “clause (iv) of such section” and inserting in lieu there-
11 of “months during which the individual has attained
12 the age of 65 and for which the individual can demon-
13 strate that the individual was enrolled in a group
14 health plan described in section 1862(b)(3)(A)(iv)”.

15 (2) **SPECIAL ENROLLMENT PERIODS.**—Section
16 1837(i) of the Social Security Act (42 U.S.C. 1395p),
17 as added by section 2338(b) of the Deficit Reduction
18 Act of 1984, is amended—

19 (A) in paragraph (1), by amending subpara-
20 graph (A) to read as follows:

21 “(A) has attained the age of 65,”; and

22 (B) in paragraph (2), by redesignating sub-
23 paragraph (C) as subparagraph (D) and by amend-
24 ing subparagraphs (A) and (B) to read as follows:

25 “(A) has attained the age of 65;

1 “(B)(i) has enrolled (or has been deemed to have
2 enrolled) in the medical insurance program established
3 under this part during the individual’s initial enrollment
4 period, or (ii) is an individual described in paragraph
5 (1)(B);

6 “(C) has enrolled in such program during any sub-
7 sequent special enrollment period under this subsection
8 during which the individual was not enrolled in a group
9 health plan described in section 1862(b)(3)(A)(iv) by
10 reason of the individual’s (or individual’s spouse’s) cur-
11 rent employment; and”.

12 (3) EFFECTIVE DATES.—

13 (A) The amendment made by paragraph (1)
14 shall apply to months beginning with January
15 1983 for premiums for months beginning with the
16 first month that begins more than 30 days after
17 the date of the enactment of this Act.

18 (B)(i) The amendments made by paragraph
19 (2) shall apply to enrollments in months beginning
20 with the first effective month (as defined in clause
21 (ii)), except that in the case of any individual who
22 would have a special enrollment period under sec-
23 tion 1837(i) of the Social Security Act that would
24 have begun after November 1984 and before the
25 first effective month, the period shall be deemed

1 to begin with the first day of the first effective
2 month.

3 (ii) For purposes of clause (i), the term “first
4 effective month” means the first month that
5 begins more than 90 days after the date of the
6 enactment of this Act.

7 (b) MISCELLANEOUS TECHNICAL CORRECTIONS.—

8 (1)(A) Subclause (III) of section 1842(b)(7)(B)(ii)
9 of the Social Security Act (42 U.S.C.
10 1395u(b)(7)(B)(ii)), as added by section 2307(a)(2)(G) of
11 the Deficit Reduction Act of 1984, is amended by in-
12 denting it two additional ems to the right so as to
13 align its left margin with the left margins of subclauses
14 (I) and (II) of that section.

15 (B) Section 1861(n) of the Social Security Act (42
16 U.S.C. 1395x(n)), as inserted by section 2321(e)(3) of
17 the Deficit Reduction Act of 1984, is amended by
18 striking out “at his home” and inserting in lieu thereof
19 “as his home”.

20 (C) Section 1888(b) of the Social Security Act (42
21 U.S.C. 1395yy(b)), as added by section 2319(b) of the
22 Deficit Reduction At of 1984, is amended by striking
23 out “nothwithstanding” and inserting in lieu thereof
24 “notwithstanding”.

1 (D) The amendments made by this paragraph
2 shall be effective as if they had been originally included
3 in the Deficit Reduction Act of 1984.

4 (2)(A) Clause (iii) of section 1842(b)(7)(B) of the
5 Social Security Act (42 U.S.C. 1395u(b)(7)(B)), as
6 added by section 3(b)(6) of Public Law 98-617, is
7 amended by moving its alignment two additional ems
8 to the left so as to align its left margin with the left
9 margins of clauses (i) and (ii) of that section.

10 (B) The amendment made by subparagraph (A)
11 shall be effective as if it had been originally included in
12 Public Law 98-617.

13 (3)(A) Section 1861(v)(1)(G)(i) of the Social Secu-
14 rity Act (42 U.S.C. 1395x(b)(1)(G)(i)), as amended by
15 section 602(d)(1) of the Social Security Amendments of
16 1983, is amended by inserting, in the matter after sub-
17 clause (III), “on the basis of” after “(during such
18 period)”.

19 (B) The amendment made by subparagraph (A)
20 shall be effective as if it had been originally included in
21 the Social Security Amendments of 1983.

1 **PART C—CHANGES RELATING PRIMARILY TO PART**
2 **B OF THE MEDICARE PROGRAM**

3 **SEC. 141. EXTENSION OF PHYSICIAN FEE FREEZE FOR NON-**
4 **PARTICIPATING PHYSICIANS AND IMPROVE-**
5 **MENTS IN THE PARTICIPATING PHYSICIAN**
6 **PROGRAM.**

7 (a) **ONE-YEAR EXTENSION FOR NON-PARTICIPATING**
8 **PHYSICIANS.—**

9 (1) **EXTENSION.**—Section 1842(b)(4) of the Social
10 Security Act (42 U.S.C. 1395u(b)(4)) is amended—

11 (A) in subparagraph (A)—

12 (i) by inserting “(i)” after “(4)(A)”, and

13 (ii) by adding at the end the following new
14 clauses:

15 “(ii) In determining the prevailing charge levels under
16 the third and fourth sentences of paragraph (3) for physicians’
17 services furnished during the 12-month period beginning Oc-
18 tober 1, 1985, by a physician who is not a participating phy-
19 sician (as defined in subsection (h)(1)) at the time of furnish-
20 ing the services, the Secretary shall not set any level higher
21 than the same level as was set for the 12-month period be-
22 ginning July 1, 1983.

23 “(iii) In determining the prevailing charge levels under
24 the third and fourth sentences of paragraph (3) for physicians’
25 services furnished during a 12-month period beginning on or
26 after October 1, 1986, by a physician who is not a participat-

1 ing physician (as defined in subsection (h)(1)) at the time of
 2 furnishing the services, the Secretary shall not set any level
 3 higher than the same level as was set for services furnished
 4 during the previous fiscal year for physicians who were par-
 5 ticipating physicians during that year.”;

6 (B) in subparagraph (B)—

7 (i) by inserting “(i)” after “(B)”, and

8 (ii) by adding at the end the following new
 9 clause:

10 “(ii) In determining the reasonable charge under para-
 11 graph (3) for physicians’ services furnished during the 12-
 12 month period beginning October 1, 1985, by a physician who
 13 is not a participating physician (as defined in subsection
 14 (h)(1)) at the time of furnishing the services, the customary
 15 charges shall be the same customary charges as were recog-
 16 nized under this section for the 12-month period beginning
 17 July 1, 1983.”;

18 (C) in subparagraph (C)—

19 (i) by inserting “(i)” after “(C)”,

20 (ii) by striking out “(A)” and inserting in lieu
 21 thereof “(A)(i)” each place it appears, and

22 (iii) by adding at the end the following new
 23 clause:

24 “(ii) In determining the prevailing charge levels under
 25 the third and fourth sentences of paragraph (3) for physicians’

1 services furnished during the periods beginning after Septem-
2 ber 30, 1986, by a physician who was not a participating
3 physician on that date, the Secretary shall treat the level as
4 set under subparagraph (A)(ii) as having fully provided for the
5 economic changes which would have been taken into account
6 but for the limitations contained in subparagraph (A)(ii).”;
7 and

8 (D) in subparagraph (D)—

9 (i) by striking out “who at no time” and all
10 that follows through “subsection (h)(1))” and
11 insert in lieu thereof “who was not a participating
12 physician (as defined in subsection (h)(1)) on Sep-
13 tember 30, 1985”,

14 (ii) by inserting “(i)” after “(D)”, and

15 (iii) by adding at the end the following new
16 clause:

17 “(ii) In determining the customary charges for physi-
18 cians’ services furnished during the 12-month period begin-
19 ning October 1, 1986, or October 1, 1987, by a physician
20 who is not a participating physician (as defined in subsection
21 (h)(1)) on September 30, 1986, the Secretary shall not recog-
22 nize increases in actual charges for services furnished during
23 the 12-month period beginning on October 1, 1985, above
24 the level of the physician’s actual charges billed during the 3-
25 month period ending on June 30, 1984.”.

1 (2) CONTINUED ENFORCEMENT.—The first sen-
2 tence of section 1842(j)(1) of such Act (42 U.S.C.
3 1395u(j)(1)) is amended to read as follows: “In the
4 case of a physician who is not a participating physician
5 for items and services furnished during a portion of the
6 27-month period beginning July 1, 1984, the Secretary
7 shall monitor the physician’s actual charges to individ-
8 uals enrolled under this part for physicians’ services
9 during that portion of that period.”.

10 (3) EFFECTIVE DATE.—The amendments made
11 by this subsection shall apply to services furnished on
12 or after October 1, 1985.

13 (b) INCENTIVES FOR PARTICIPATING PHYSICIAN PRO-
14 GRAM.—

15 (1) ONE-YEAR EXTENSION OF TRANSFER OF
16 FUNDS FOR CARRIERS.—Section 2306(e) of the Deficit
17 Reduction Act of 1984 (Public Law 98–369; 98 Stat.
18 1073) is amended—

19 (A) by striking out “and 1985” and inserting
20 in lieu thereof “, 1985, and 1986”,

21 (B) by striking out “the amendments made
22 by this section” and inserting in lieu thereof “sub-
23 sections (b)(4), (h), and (j) of section 1842 of the
24 Social Security Act”,

(C) by striking out “for fiscal year 1985” and inserting in lieu thereof “for each of fiscal years 1985 and 1986”, and

(D) by adding at the end the following new sentence: “A significant proportion of such funds shall be used for the expansion of the participating physician and supplier program and for the development of professional relations staffs dedicated to addressing the billing and other problems of physicians and suppliers participating in that program.”.

(2) IMPROVEMENT OF PARTICIPATING PHYSICIAN DIRECTORIES.—Section 1842(i) of the Social Security Act (42 U.S.C. 1395u(i)) is amended—

(A) in the first sentence of paragraph (2)—

(i) by striking out “a directory” and inserting in lieu thereof “directories (for appropriate local geographic areas)”, and

(ii) by inserting “for that area” before “for that fiscal year”;

(B) in the second sentence of paragraph (2), by striking out “The directory” and inserting in lieu thereof “Each directory”;

(C) in paragraph (3)—

1 (i) by striking out "directory" the first
 2 place it appears and inserting in lieu thereof
 3 "the directories", and

4 (ii) by striking out "directory" the
 5 second place it appears and inserting in lieu
 6 thereof "the appropriate area directory or
 7 directories"; and

8 (D) in paragraph (4)—

9 (i) by striking out "directory" and in-
 10 serting in lieu thereof "the directories", and

11 (ii) by adding at the end the following:
 12 "The Secretary shall provide that each ap-
 13 propriate area directory is sent to each par-
 14 ticipating physician located in that area."

15 (3) ELIMINATION OF PHYSICIAN ASSIGNMENT
 16 RATE LIST.—Section 1842(i) of such Act is further
 17 amended—

18 (A) by striking out "(i)(1)" and all that fol-
 19 lows through the end of paragraph (1),

20 (B) by striking out "subsection (h)(1)" in
 21 paragraph (2) and inserting in lieu thereof "para-
 22 graph (1)",

23 (C) by striking out "such list and" and "the
 24 list and" each place either appears in paragraphs
 25 (3) and (4), and

(D) by redesignating paragraphs (2) through (4) as paragraphs (4) through (6) of subsection (h), respectively.

(4) INFORMATION ON THE PARTICIPATING PHYSICIAN AND SUPPLIER PROGRAM IN EXPLANATIONS OF MEDICARE BENEFITS FOR UNASSIGNED CLAIMS.—

Section 1842(h) of such Act, as previously amended by this subsection, is further amended by adding at the end the following new paragraphs:

“(7) The Secretary shall provide that each explanation of benefits provided under this part for services furnished in the United States, in conjunction with the payment of claims under section 1833(a)(1) (made other than on an assignment-related basis, described in paragraph (8)), shall include—

“(A) a reminder of the participating physician and supplier program established under this subsection (including the limitation on charges that may be imposed by such physicians and suppliers), and

“(B) the toll-free telephone number or numbers, maintained under paragraph (2), at which an individual enrolled under this part may obtain information on participating physicians and suppliers.

“(8) For purposes of this title, a claim is considered to be paid on an ‘assignment-related basis’ if the claim is paid on the basis of an assignment described in subsection

1 (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under
2 the procedure described in section 1870(f)(1).”.

3 (5) EFFECTIVE DATE.—Section 1842(b)(7) of the
4 Social Security Act, as added by paragraph (4) of this
5 subsection, shall apply to explanations of benefits pro-
6 vided on or after such date (not later than April 1,
7 1986) as the Secretary of Health and Human Services
8 shall specify.

9 SEC. 142. EXPANSION OF MEMBERSHIP AND DUTIES OF THE
10 PROSPECTIVE PAYMENT ASSESSMENT COMMIS-
11 SION TO INCLUDE REVIEW OF PAYMENTS FOR
12 PHYSICIANS' SERVICES.

13 (a) EXPANSION AND ESTABLISHMENT OF SUBCOM-
14 MITTEES.—

15 (1) IN GENERAL.—Section 1886(e)(6) of the
16 Social Security Act (42 U.S.C. 1395ww(e)(6)) is
17 amended—

18 (A) by amending subparagraph (A) to read as
19 follows:

20 “(A)(i) The Commission shall consist of 23 members.
21 Fifteen members of the Commission shall first be appointed
22 no later than April 1, 1984, and the remaining members shall
23 first be appointed no later than January 1, 1986, for a term
24 of three years, except that the Director may provide for such
25 shorter terms as will insure that (on a continuing basis) the

1 terms of no more than eight members expire in any one year.

2 The Director shall appoint a member to serve as Chairman.

3 “(ii) The Chairman of the Commission shall provide for
4 two subcommittees of the Commission, one with functions
5 and responsibilities relating primarily to hospital payment
6 issues and the other with functions and responsibilities relat-
7 ing primarily to physician payment issues. The Chairman
8 may assign members of the Commission to serve on either or
9 both subcommittees of the Commission.”; and

10 (B) in subparagraph (B), by inserting “repre-
11 sentatives of consumer and elderly groups,” after
12 “third party payors,”.

13 (2) INITIAL ASSIGNMENT OF MEMBERS TO SUB-
14 COMMITTEES.—The Chairman of the Commission shall
15 initially assign—

16 (A) to serve on the hospital payment sub-
17 committee of the Commission—

18 (i) all the members of the Commission
19 serving in positions established before the
20 date of the enactment of this Act, and

21 (ii) two of the members appointed to the
22 Commission for additional positions estab-
23 lished by the amendment made by paragraph
24 (1), and

1 (B) to serve on the physician payment sub-
2 committee of the Commission the six remaining
3 members of the Commission who are appointed to
4 serve in the additional positions so established.

5 (b) ADDITIONAL FUNCTIONS RELATING TO PHYSI-
6 CIANS' PAYMENTS.—Section 1886(e) of such Act is amend-
7 ed by adding at the end the following new paragraph:

8 “(7)(A) The Commission shall make recommendations
9 to the Congress, not later than February 1 of each year (be-
10 ginning with 1987), regarding adjustments to the reasonable
11 charge levels for physicians' services recognized under sec-
12 tion 1842(b) and changes in the methodology for determining
13 the rates of payment, and for making payment, for physi-
14 cians' services under this title and other items and services
15 under part B.

16 “(B) In making its recommendations, the Commission
17 shall—

18 “(i) consider, and make recommendations on the
19 feasibility and desirability of reducing, the differences
20 in payment amounts for physicians' services under part
21 B which are based on differences in geographic loca-
22 tion or specialty;

23 “(ii) review the input costs (including time, profes-
24 sional skills, and risks) associated with the provision of
25 different physicians' services;

1 “(iii) identify those charges recognized as reasona-
2 ble under section 1842(b) which are significantly out-
3 of-line, based on the considerations of clauses (i) and
4 (ii);

5 “(iv) assess the likely impact of different adjust-
6 ments in payment rates, particularly their impact on
7 physician participation in the participation program es-
8 tablished under section 1842(h) and on beneficiary
9 access to necessary physicians’ services;

10 “(v) make recommendations on ways to increase
11 physician participation in that participation program
12 and the acceptance of payment under part B on an as-
13 signment-related basis;

14 “(vi) make recommendations respecting the advis-
15 ability and feasibility of making changes in the pay-
16 ment system for physicians’ services under part B
17 based on (I) the Secretary’s study under section
18 603(b)(2) of the Social Security Amendments of 1983
19 (relating to payments for physicians’ services furnished
20 to hospital inpatients on the basis of diagnosis-related
21 groups) and (II) the Office’s report under section 2309
22 of the Deficit Reduction Act of 1984 (relating to physi-
23 cian reimbursement under part B);

24 “(vii) identify those procedures, involving the use
25 of assistants at surgery, for which payment for those

1 assistants should not be made under this title without
2 prior approval; and

3 “(viii) identify those procedures for which an opin-
4 ion of a second physician should be required before
5 payment is made under this title.

6 “(C) The Commission also shall advise and make recom-
7 mendations to the Secretary respecting the development of
8 the relative value scale under section 1845.”.

9 (c) STUDY OF RELATIVE VALUE SCALE FOR PHYSI-
10 CIANS’ SERVICES.—Part B of title XVIII of such Act is
11 amended by adding at the end the following new section:

12 “STUDY OF RELATIVE VALUE SCALE FOR PHYSICIANS’
13 SERVICES

14 “SEC. 1845. (a) The Secretary shall develop a relative
15 value scale that establishes a numerical relationship among
16 the various physicians’ services for which payment may be
17 made under this part.

18 “(b) In developing the scale, the Secretary shall consid-
19 er among other items—

20 “(1) the report of the Office of Technology As-
21 sessment under section 2309 of the Deficit Reduction
22 Act of 1984,

23 “(2) the recommendations of the Prospective Pay-
24 ment Assessment Commission under section
25 1886(e)(7)(C), and

1 “(3) factors with respect to the input costs for fur-
2 nishing particular physicians’ services, such as—

3 “(A) the differences in costs of furnishing
4 services in different settings,

5 “(B) the differences in skill levels and train-
6 ing required to perform the services, and

7 “(C) the time required, and risk involved, in
8 furnishing different services.

9 “(c) The Secretary shall complete the development of
10 the relative value scale under this section, and report to Con-
11 gress on the development, not later than April 1, 1987. The
12 report shall include recommendations for the application of
13 the scale to the payment for physicians’ services furnished
14 under this part on or after October 1, 1987.”.

15 (d) MODIFICATION OF FUNDING FORMULA.—Section
16 1886(e)(6)(I)(ii) of such Act is amended by striking out
17 “Eighty-five” and “15” and inserting in lieu thereof “Fifty”
18 and “50”.

19 (e) STAFFING.—Section 1886(e)(6)(C)(i) of such Act is
20 amended by striking out “25” and inserting in lieu thereof
21 “35”.

22 (f) EFFECTIVE DATE.—The amendments made by this
23 section shall take effect on October 1, 1985.

1 **SEC. 143. PART B PREMIUM.**

2 Section 1839 of the Social Security Act (42 U.S.C.
3 1395r) is amended—

4 (1) in subsection (e), by striking out “1988” and
5 inserting in lieu thereof “1989” each place it appears;

6 (2) in subsection (f)(1), by striking out “or 1986”
7 and inserting in lieu thereof “, 1986, or 1987”; and

8 (3) in subsection (f)(2), by striking out “or 1987”
9 and inserting in lieu thereof “, 1987, or 1988”.

10 **SEC. 144. DETERMINATIONS OF INHERENT REASONABLENESS**
11 **OF CHARGES AND CUSTOMARY CHARGES FOR**
12 **CERTAIN FORMER HOSPITAL-COMPENSATED**
13 **PHYSICIANS.**

14 (a) **REGULATIONS RELATING TO INHERENT REASON-**
15 **ABLENESS OF CHARGES.**—Section 1842(b) of the Social Se-
16 curity Act (42 U.S.C. 1395u(b)) is amended by adding at the
17 end the following new paragraph:

18 “(8) The Secretary by regulation shall—

19 “(A) describe the factors to be used in determin-
20 ing the cases (of particular items or services) in which
21 the application of this subsection results in the determi-
22 nation of a reasonable charge that, by reason of its
23 grossly excessive or grossly deficient amount, is not in-
24 herently reasonable, and

“(B) provide in those cases for the factors that will be considered in establishing a reasonable charge that is realistic and equitable.”.

(b) COMPUTATION OF CUSTOMARY CHARGES FOR CERTAIN FORMER HOSPITAL-COMPENSATED PHYSICIANS.—(1) In applying section 1842(b) of the Social Security Act for payment for physicians’ services performed during fiscal year 1986, in the case of a physician who during the period beginning on October 31, 1982, and ending on January 31, 1985, was a hospital-compensated physician (as defined in paragraph (2)) but who, as of January 31, 1985, was no longer a hospital-compensated physician, the physician’s customary charges shall—

(A) be based upon the physician’s actual charges billed during the 12-month period ending on March 31, 1985, and

(B) in the case of a physician who is not a participating physician (as defined in section 1842(h)(1) of the Social Security Act) on October 1, 1985, be deflated (to take into account the legislative freeze on actual charges for nonparticipating physicians’ services) by multiplying the physician’s customary charges by .83.

(2) In paragraph (1), the term “hospital-compensated physician” means, with respect to services furnished to patients of a hospital, a physician who is compensated by the

1 hospital for the furnishing of physicians' services for which
2 payment may be made under this part.

3 **SEC. 145. OCCUPATIONAL THERAPY SERVICES.**

4 (a) **COVERAGE.**—Subparagraph (C) of section
5 1832(a)(2) of the Social Security Act (42 U.S.C. 1395k(a)(2))
6 is amended to read as follows:

7 “(C) outpatient physical therapy services
8 (other than services to which the second sentence
9 of section 1861(p) applies) and outpatient occupa-
10 tional therapy services (other than services to
11 which such sentence applies through the operation
12 of section 1861(g));”.

13 (b) **LIMITATION ON PAYMENTS.**—Section 1833(g) of
14 such Act (42 U.S.C. 1395l(g)) is amended—

15 (1) by striking out “next to last sentence” and in-
16 serting in lieu thereof “second sentence”, and

17 (2) by adding at the end thereof the following new
18 sentence: “In the case of outpatient occupational ther-
19 apy services which are described in the second sen-
20 tence of section 1861(p) through the operation of sec-
21 tion 1861(g), with respect to expenses incurred in any
22 calendar year, no more than \$500 shall be considered
23 as incurred expenses for purposes of subsections (a)
24 and (b).”.

1 (c) CERTIFICATION STANDARD.—(1) Section
2 1835(a)(2)(C) of such Act (42 U.S.C. 1395n(a)(2)(C)) is
3 amended—

4 (A) by inserting “or outpatient occupational ther-
5 apy services” after “outpatient physical therapy serv-
6 ices”,

7 (B) in clause (i), by inserting “or occupational
8 therapy services, respectively” after “physical therapy
9 services”, and

10 (C) in clause (ii), by inserting “or qualified occu-
11 pational therapist, respectively” after “qualified physi-
12 cal therapist”.

13 (2) The second sentence of section 1835(a) of such Act
14 and section 1866(e) of such Act (42 U.S.C. 1395n(a),
15 1395cc(e)) are each amended—

16 (A) by inserting “(or meets the requirements of
17 such section through the operation of section 1861(g))”
18 after “1861(p)(4)(A)” and after “1861(p)(4)(B)”, and

19 (B) by inserting “or (through the operation of sec-
20 tion 1861(g)) with respect to the furnishing of outpa-
21 tient occupational therapy services” after “(as therein
22 defined)”.

23 (d) DEFINITION AND INCLUSION WITH OTHER PART B
24 SERVICES.—(1) Section 1861 of the Social Security Act (42

1 U.S.C. 1395x) is amended by inserting after subsection (f)
2 the following new subsection:

3 “Outpatient Occupational Therapy Services

4 “(g) The term ‘outpatient occupational therapy services’
5 has the meaning given the term ‘outpatient physical therapy
6 services’ in subsection (p), except that ‘occupational’ shall be
7 substituted for ‘physical’ each place it appears therein.”.

8 (2) Section 1861(s)(2)(D) of such Act (42 U.S.C.
9 1395x(s)(2)(D)) is amended by inserting “and outpatient oc-
10 cupational therapy services” after “outpatient physical ther-
11 apy services”.

12 (3) Section 1861(v)(5)(A) of such Act (42 U.S.C.
13 1395x(v)(5)(A)) is amended by inserting “(including through
14 the operation of section 1861(g))” after “section 1861(p)”.

15 (e) EFFECTIVE DATE.—The amendments made by this
16 section shall apply to expenses incurred for outpatient occu-
17 pational therapy services furnished on or after October 1,
18 1985.

19 **SEC. 146. PAYMENT FOR DURABLE MEDICAL EQUIPMENT.**

20 (a) **LIMITING TO ONE PERCENT INCREASES IN CUS-**
21 **TOMARY AND PREVAILING CHARGES FOR DURABLE MEDI-**
22 **CAL EQUIPMENT FURNISHED ON RENTAL BASIS.**—Section
23 1842 of the Social Security Act (42 U.S.C. 1395u) is amend-
24 ed by adding at the end the following new subsection:

1 “(k)(1) In determining the customary and prevailing
2 charge levels under the third and fourth sentences of subsec-
3 tion (b)(3) for durable medical equipment furnished on a
4 rental basis (other than under a lease-purchase agreement)
5 during the 12-month period beginning on October 1, 1985,
6 the Secretary shall not set any such level higher than 101
7 percent of the same level as was set for the 15-month period
8 beginning July 1, 1984.”.

9 (b) **REQUIRING PAYMENT ON AN ASSIGNMENT BASIS**
10 **FOR DURABLE MEDICAL EQUIPMENT FURNISHED ON A**
11 **RENTAL BASIS.**—Section 1842(k) of such Act, as added by
12 subsection (a), is amended by adding at the end the following
13 new paragraph:

14 “(2) Payment under this part for durable medical equip-
15 ment furnished on a rental basis (other than under a lease-
16 purchase agreement) may only be made on an assignment-
17 related basis (as defined in subsection (h)(8)) or to a provider
18 of services with an agreement in effect under section 1866.”.

19 (c) **LIMITING INCREASE IN PREVAILING CHARGES FOR**
20 **DURABLE MEDICAL EQUIPMENT TO CONSUMER PRICE**
21 **INDEX.**—Section 1842(k) of such Act, as previously amend-
22 ed, is further amended by adding at the end the following
23 new paragraph:

24 “(3) In the case of durable medical equipment, the pre-
25 vailing charge levels determined for purposes of clause (ii) of

1 the third sentence of subsection (b) for any 12-month period
2 (beginning after September 30, 1986) may not exceed (in the
3 aggregate) the levels determined under such clause (taking
4 into account paragraph (1), if applicable) for the preceding
5 12-month period by a percentage which exceeds the percent-
6 age increase in the Consumer Price Index for all urban con-
7 sumers (U.S. city average), as published by the Secretary of
8 Labor, for the 12-month period ending in March of that pre-
9 ceding 12-month period.”.

10 (d) CLARIFICATION OF PREVIOUS EFFECTIVE
11 DATE.—Section 2306(b)(2) of the Deficit Reduction Act of
12 1984 is amended by adding before the period at the end the
13 following: “and to durable medical equipment furnished on or
14 after July 1, 1985”.

15 (e) EFFECTIVE DATES.—

16 (1) SUBSECTION (a).—The amendments made by
17 subsection (a) shall apply to durable medical equipment
18 furnished on or after October 1, 1985.

19 (2) SUBSECTION (b).—The amendments made by
20 subsection (b) shall apply to durable medical equipment
21 furnished on or after January 1, 1986.

22 (3) SUBSECTION (c).—The amendments made by
23 subsection (c) shall apply to durable medical equipment
24 furnished on or after October 1, 1986.

(4) SUBSECTION (d).—The amendment made by subsection (d) shall take effect as though it were included in the enactment of the Deficit Reduction Act of 1984.

SEC. 147. PAYMENT FOR ASSISTANTS AT SURGERY FOR CERTAIN CATARACT OPERATIONS AND OTHER OPERATIONS.

(a) LIMITATION ON PAYMENT.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended—

(1) by striking out “or” at the end of paragraph (13),

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof “; or”, and

(3) by adding at the end the following new paragraph:

“(15) which are for services of an assistant at surgery in a cataract operation unless, before the surgery is performed, the appropriate utilization and quality control peer review organization (under part B of title XI) has approved of the use of such an assistant in the surgical procedure based on the existence of a complicating medical condition.”.

(b) ADDITIONAL PRO FUNCTIONS.—Section 1154(a)(8) of such Act (42 U.S.C. 1320c-3(a)(8)) is amended by insert-

1 ing before the period at the end the following: “or as may be
2 required to carry out section 1862(a)(15)”.

3 (c) PROHIBITION FOR SUBMITTING BILL FOR WHICH
4 PAYMENT MAY NOT BE MADE.—Section 1842 of such Act
5 (42 U.S.C. 1395u) is amended—

6 (1) in subsection (j)(2), by inserting “or subsection
7 (l)” after “paragraph (1)”, and

8 (2) by adding after subsection (k), added by sec-
9 tion 146(a) of this title, the following new subsection:

10 “(l)(1) If a physician knowingly and willfully bills an
11 individual enrolled under this part for actual charges for serv-
12 ices as an assistant at surgery for which payment may not be
13 made by reason of section 1862(a)(15), the Secretary may
14 apply sanctions against such physician in accordance with
15 subsection (j)(2).

16 “(2) If a physician knowingly and willfully bills an indi-
17 vidual enrolled under this part for actual charges that in-
18 cludes a charge for an assistant at surgery for which payment
19 may not be made by reason of section 1862(a)(15), the Secre-
20 tary may apply sanctions against such physician in accord-
21 ance with subsection (j)(2).”.

22 (d) EXTENSION OF PROHIBITION TO OTHER PROCE-
23 DURES.—The Secretary of Health and Human Services,
24 after consultation with the Prospective Payment Assessment
25 Commission, shall develop recommendations and guidelines

1 respecting other surgical procedures for which an assistant at
2 surgery is generally not medically necessary and the circum-
3 stances under which the use of an assistant at surgery is
4 medically appropriate with prior approval of an appropriate
5 entity. The Secretary shall report to Congress, not later than
6 April 1, 1986, on these recommendations and guidelines.

7 (e) EFFECTIVE DATE.—The amendments made by this
8 section shall apply to services performed on or after October
9 1, 1985.

10 SEC. 148. LIMITATION ON MEDICARE PAYMENT FOR POST-
11 CATARACT SURGERY PATIENTS.

12 (a) PAYMENT FOR REPLACEMENT OF LOST OR DAM-
13 AGED CATARACT EYEGLASSES AND CATARACT CONTACT
14 LENSES.—With respect to the payment for replacement cat-
15 aract eyeglasses and cataract contact lenses under title
16 XVIII of the Social Security Act in the case of an individual
17 beneficiary—

18 (1) payment may be made for the replacement
19 only once every year of lost or damaged cataract eye-
20 glasses, and

21 (2) payment may be made—

22 (A) in the first year after surgery, for one
23 original cataract contact lens for each eye and for
24 the replacement only twice of a lost or damaged
25 cataract contact lens for each eye, and

1 (B) in each subsequent year, for the replace-
2 ment only twice of a lost or damaged cataract
3 contact lens for each eye.

4 (b) DETERMINATION OF SEPARATE PAYMENT
5 AMOUNTS FOR PROSTHETIC LENSES AND PROFESSIONAL
6 SERVICES.—Section 1842(b) of the Social Security Act (42
7 U.S.C. 1395u(b)) is amended by adding after paragraph (8),
8 added by section 144(a) of this Act, the following new
9 paragraph:

10 “(9) In providing payment for cataract eyeglasses and
11 cataract contact lenses, and professional services relating to
12 them, under this part, each carrier shall—

13 “(A) provide for separate determinations of the
14 payment amount for the eyeglasses and lenses and of
15 the payment amount for the professional services, and

16 “(B) not recognize as reasonable for such eye-
17 glasses and lenses more than such amount as the Sec-
18 retary establishes in guidelines relating to the inherent
19 reasonableness of charges for such eyeglasses and
20 lenses.”.

21 (c) EFFECTIVE DATE.—(1) The amendments made by
22 this section shall apply to items and services furnished on or
23 after October 1, 1985.

1 (2) In applying the amendment made by subsection (a),
2 there shall not be taken into account any cataract eyeglasses
3 or contact lenses replaced before October 1, 1985.

4 **SEC. 149. DEMONSTRATION OF PREVENTIVE HEALTH SERV-**
5 **ICES UNDER MEDICARE.**

6 (a) **DEMONSTRATION PROGRAM.**—The Secretary of
7 Health and Human Services (hereinafter in this section re-
8 ferred to as the “Secretary”) shall establish a demonstration
9 program designed to reduce disability and dependency
10 through the provision of preventive health services to individ-
11 uals entitled to benefits under title XVIII of the Social Secu-
12 rity Act (hereinafter in this section referred to as “medicare
13 beneficiaries”).

14 (b) **PREVENTIVE HEALTH SERVICES UNDER DEMON-**
15 **STRATION PROGRAM.**—The preventive health services to be
16 made available under the demonstration program shall
17 include—

- 18 (1) health screenings,
- 19 (2) health risk appraisals,
- 20 (3) immunizations, and
- 21 (4) counseling on and instruction in—
 - 22 (A) diet and nutrition,
 - 23 (B) reduction of stress,
 - 24 (C) exercise and exercise programs,
 - 25 (D) sleep regulation,

- 1 (E) injury prevention,
- 2 (F) prevention of alcohol and drug abuse,
- 3 (G) prevention of mental health disorders,
- 4 (H) self-care, including use of medication,
- 5 and
- 6 (I) reduction of smoking.

7 (c) CONDUCT OF PROGRAM.—The demonstration pro-
8 gram shall—

9 (1) be conducted under the direction of accredited
10 public or private nonprofit schools of public health;

11 (2) be conducted in no fewer than five sites, which
12 sites shall be chosen so as to be geographically diverse
13 and shall be readily accessible to a significant number
14 of medicare beneficiaries;

15 (3) involve community outreach efforts at each
16 site to enroll the maximum number of medicare benefi-
17 ciaries in the program; and

18 (4) be designed—

19 (A) to test alternative methods of payment
20 for preventive health services, including payment
21 on a prepayment basis as well as payment on a
22 fee-for-service basis,

23 (B) to permit a variety of appropriate health
24 care providers to furnish preventive health serv-
25 ices, including physicians, health educators,

nurses, allied health personnel, dieticians, and
clinical psychologists, and

(C) to facilitate evaluation under subsection
(d).

(d) EVALUATION.—The Secretary shall evaluate the
demonstration project in order to determine—

(1) the short-term and long-term costs and benefits of providing preventive health services for medicare beneficiaries, including any reduction in inpatient services resulting from providing the services, and

(2) what practical financing mechanisms exist to provide payment for preventive health services under title XVIII of the Social Security Act.

(e) REPORTS TO CONGRESS.—(1) Not later than three years after the date of the enactment of this Act, the Secretary shall submit a preliminary report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate on the progress made in the demonstration program, including a description of the sites at which the program is being conducted and the preventive health services being provided at the different sites.

(2) Not later than five years after the date of the enactment of this Act, the Secretary shall submit a final report to those Committees on the demonstration program and shall include in the report—

1 (A) the evaluation described in subsection (d), and

2 (B) recommendations for appropriate legislative
3 changes to incorporate payment for cost-effective pre-
4 ventive health services into the medicare program.

5 (f) FUNDING.—Expenditures made for the demonstra-
6 tion program shall be made from the Federal Supplementary
7 Medical Insurance Trust Fund (established by section 1841
8 of the Social Security Act). Grants and payments under con-
9 tracts may be made either in advance or by way of reim-
10 bursement, as may be determined by the Secretary, and shall
11 be made in such installments and on such conditions as the
12 Secretary finds necessary to carry out the purpose of this
13 section.

14 (g) WAIVER OF MEDICARE REQUIREMENTS.—The
15 Secretary shall waive compliance with such requirements of
16 title XVIII of the Social Security Act to the extent and for
17 the period the Secretary finds necessary for the conduct of
18 the demonstration program.

1 **PART D—OTHER AND ADDITIONAL CHANGES RE-**
2 **LATING TO PART B (OR TO PARTS A AND B) OF**
3 **THE MEDICARE PROGRAM**

4 **SEC. 151. EXTENSION OF PHYSICIAN FEE FREEZE FOR CER-**
5 **TAIN NON-PARTICIPATING PHYSICIANS AND IM-**
6 **PROVEMENTS IN THE PARTICIPATING PHYSI-**
7 **CIAN PROGRAM.**

8 (a) ONE-YEAR EXTENSION FOR NON-PARTICIPATING
9 PHYSICIANS.—

10 (1) EXTENSION.—Section 1842(b)(4) of the Social
11 Security Act (42 U.S.C. 1395u(b)(4)) is amended—

12 (A) in subparagraph (A)—

13 (i) by inserting “(i)” after “(4)(A)”, and

14 (ii) by adding at the end the following new
15 clauses:

16 “(ii) In determining the prevailing charge levels under
17 the third and fourth sentences of paragraph (3) for physicians’
18 services furnished during the 12-month period beginning Oc-
19 tober 1, 1985, by a physician who is not a participating phy-
20 sician (as defined in subsection (h)(1)) at the time of furnish-
21 ing the services, the Secretary shall not set any level higher
22 than the same level as was set for the 12-month period be-
23 ginning July 1, 1983; except that in the case of a physician
24 described in subparagraph (E)(i), the Secretary shall not set
25 any level higher than the increase percentage (described in

1 subparagraph (E)(ii)) above the level that was set for the 12-
2 month period beginning July 1, 1983.

3 “(iii) In determining the prevailing charge levels under
4 the third and fourth sentences of paragraph (3) for physicians’
5 services furnished during a 12-month period beginning on or
6 after October 1, 1986, by a physician who is not a participat-
7 ing physician (as defined in subsection (h)(1)) at the time of
8 furnishing the services, the Secretary shall not set any level
9 higher than the same level as was set for services furnished
10 during the previous fiscal year for physicians who were par-
11 ticipating physicians on the last day of that year; except that
12 in the case of a physician described in subparagraph (E)(i),
13 the Secretary shall not set any level higher than the increase
14 percentage (described in subparagraph (E)(ii)) above the level
15 that was set for services furnished during the previous fiscal
16 year for physicians who were participating physicians on the
17 last day of that year.”;

18 (B) in subparagraph (B)—

19 (i) by inserting “(i)” after “(B)”, and

20 (ii) by adding at the end the following new
21 clause:

22 “(ii) In determining the reasonable charge under para-
23 graph (3) for physicians’ services furnished during the 12-
24 month period beginning October 1, 1985, by a physician who
25 is not a participating physician (as defined in subsection

1 (h)(1)) at the time of furnishing the services, the customary
 2 charges shall be the same customary charges as were recog-
 3 nized under this section for the 12-month period beginning
 4 July 1, 1983; except that in the case of a physician described
 5 in subparagraph (E)(i), the customary charges may not
 6 exceed the customary charges that were recognized under
 7 this section for the 12-month period beginning July 1, 1983,
 8 increased by the increase percentage (described in subpara-
 9 graph (E)(ii)).”;

10 (C) in subparagraph (C)—

11 (i) by inserting “(i)” after “(C)”,

12 (ii) by striking out “(A)” and inserting in lieu
 13 thereof “(A)(i)” each place it appears, and

14 (iii) by adding at the end the following new
 15 clause:

16 “(ii) In determining the prevailing charge levels under
 17 the third and fourth sentences of paragraph (3) for physicians’
 18 services furnished during periods beginning after September
 19 30, 1986, by a physician who was not a participating physi-
 20 cian on that date, the Secretary shall treat the level as set
 21 under subparagraph (A)(ii) as having fully provided for the
 22 economic changes which would have been taken into account
 23 but for the limitations contained in subparagraph (A)(ii).”;

24 (D) in subparagraph (D)—

1 (i) by striking out "who at no time" and all
2 that follows through "subsection (h)(1))" and
3 insert in lieu thereof "who was not a participating
4 physician (as defined in subsection (h)(1)) on Sep-
5 tember 30, 1985",

6 (ii) by inserting "(i)" after "(D)", and

7 (iii) by adding at the end the following new
8 clause:

9 "(ii)(I) In determining the customary charges for physi-
10 cians' services furnished during the 12-month period begin-
11 ning October 1, 1986, or October 1, 1987, by a physician
12 who is not a participating physician (as defined in subsection
13 (h)(1)) on September 30, 1986, except as provided in sub-
14 clause (II) the Secretary shall not recognize increases in
15 actual charges for services furnished during the 12-month
16 period beginning on October 1, 1985, above the level of the
17 physician's actual charges billed during the 3-month period
18 ending on June 30, 1984.

19 "(II) In the case of a physician who was a participating
20 physician on September 30, 1985, the Secretary shall recog-
21 nize increases in actual charges for services furnished during
22 the 12-month period beginning on October 1, 1985, above
23 the level of the physician's actual charges billed during the 3-
24 month period ending on June 30, 1984, but only to the
25 extent that the percentage of such an increase does not

1 exceed one-half of the percentage increase in the physician's
2 actual charges for services furnished over the period begin-
3 ning July 1, 1984, and ending September 30, 1985.”; and

4 (E) by adding at the end the following new sub-
5 paragraph:

6 “(E)(i) With respect to services furnished during a 12-
7 month period beginning on October 1, a physician described
8 in this clause is a physician who is not a participating physi-
9 cian at the time of furnishing the services but who either (I)
10 was a participating physician on September 30 before that
11 period, or (II) accepted payment on an assignment-related
12 basis (as defined in subsection (h)(8)) for all claims received
13 during the immediately preceding 12-month period for serv-
14 ices furnished by the physician under this part during that
15 period.

16 “(ii) The ‘increase percentage’ described in this clause
17 is, with respect to a physician for items and services fur-
18 nished during a 12-month period beginning on October 1,
19 one-half of the percentage increase that otherwise would be
20 applicable to services furnished by the physician if the physi-
21 cian (I) had been a participating physician on the date before
22 the first date of the period, and (II) were to sign up to be a
23 participating physician for items and services furnished
24 during the period.”.

1 (2) CONTINUED ENFORCEMENT.—Section
2 1842(j)(1) of such Act (42 U.S.C. 1395u(j)(1)) is
3 amended—

4 (A) by amending the first sentence to read as
5 follows: “In the case of a physician who is not a
6 participating physician for items and services fur-
7 nished during a portion of the 27-month period
8 beginning July 1, 1984, the Secretary shall moni-
9 tor the physician’s actual charges to individuals
10 enrolled under this part for physicians’ services
11 during that portion of that period.”; and

12 (B) in the second sentence, by inserting “,
13 or, in the case of items and services furnished
14 during fiscal year 1986 by a physician who was a
15 participating physician on September 30, 1985, if
16 such physician knowingly and willfully bills indi-
17 viduals enrolled under this part for actual charges
18 which are more than the increase percentage
19 (which may be recognized under subparagraph
20 (D)(ii)(II)) above such physician’s actual charges
21 for the calendar quarter beginning on April 1,
22 1984” after “April 1, 1984”.

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to services furnished on
25 or after October 1, 1985.

1 (b) INCENTIVES FOR PARTICIPATING PHYSICIAN PRO-
2 GRAM.—

3 (1) ONE-YEAR EXTENSION OF TRANSFER OF
4 FUNDS FOR CARRIERS.—Section 2306(e) of the Deficit
5 Reduction Act of 1984 (Public Law 98-369; 98 Stat.
6 1073) is amended—

7 (A) by striking out “and 1985” and inserting
8 in lieu thereof “, 1985, and 1986”,

9 (B) by striking out “the amendments made
10 by this section” and inserting in lieu thereof “sub-
11 sections (b)(4), (h), and (j) of section 1842 of the
12 Social Security Act”,

13 (C) by striking out “for fiscal year 1985”
14 and inserting in lieu thereof “for each of fiscal
15 years 1985 and 1986”, and

16 (D) by adding at the end the following new
17 sentence: “A significant proportion of such funds
18 shall be used for the expansion of the participat-
19 ing physician and supplier program and for the
20 development of professional relations staffs dedi-
21 cated to addressing the billing and other problems
22 of physicians and suppliers participating in that
23 program.”.

1 (2) IMPROVEMENT OF PARTICIPATING PHYSI-
2 CIAN DIRECTORIES.—Section 1842(i) of the Social Se-
3 curity Act (42 U.S.C. 1395u(i)) is amended—

4 (A) in the first sentence of paragraph (2)—

5 (i) by striking out “a directory” and in-
6 serting in lieu thereof “directories (for appro-
7 priate local geographic areas)”, and

8 (ii) by inserting “for that area” before
9 “for that fiscal year”;

10 (B) in the second sentence of paragraph (2),
11 by striking out “The directory” and inserting in
12 lieu thereof “Each directory”;

13 (C) in paragraph (3)—

14 (i) by striking out “directory” the first
15 place it appears and inserting in lieu thereof
16 “the directories”, and

17 (ii) by striking out “directory” the
18 second place it appears and inserting in lieu
19 thereof “the appropriate area directory or di-
20 rectories”;

21 (D) in paragraph (4)—

22 (i) by striking out “directory” and in-
23 serting in lieu thereof “the directories”, and

24 (ii) by adding at the end the following:
25 “The Secretary shall provide that each ap-

1 appropriate area directory is sent to each par-
2 ticipating physician located in that area.”.

3 (3) ELIMINATION OF PHYSICIAN ASSIGNMENT
4 RATE LIST.—Section 1842(i) of such Act is further
5 amended—

6 (A) by striking out “(i)(1)” and all that fol-
7 lows through the end of paragraph (1),

8 (B) by striking out “subsection (h)(1)” in
9 paragraph (2) and inserting in lieu thereof “para-
10 graph (1)”,

11 (C) by striking out “such list and” and “the
12 list and” each place either appears in paragraphs
13 (3) and (4), and

14 (D) by redesignating paragraphs (2) through
15 (4) as paragraphs (4) through (6) of subsection (h),
16 respectively.

17 (4) INFORMATION ON THE PARTICIPATING PHY-
18 SICIAN AND SUPPLIER PROGRAM IN EXPLANATIONS
19 OF MEDICARE BENEFITS FOR UNASSIGNED CLAIMS.—
20 Section 1842(h) of such Act, as previously amended by
21 this subsection, is further amended by adding at the
22 end the following new paragraphs:

23 “(7) The Secretary shall provide that each explanation
24 of benefits provided under this part for services furnished in
25 the United States, in conjunction with the payment of claims

1 under section 1833(a)(1) (made other than on an assignment-
2 related basis, described in paragraph (8)), shall include—

3 “(A) a reminder of the participating physician and
4 supplier program established under this subsection (in-
5 cluding the limitation on charges that may be imposed
6 by such physicians and suppliers), and

7 “(B) the toll-free telephone number or numbers,
8 maintained under paragraph (2), at which a beneficiary
9 may obtain information on participating physicians and
10 suppliers.

11 “(8) For purposes of this title, a claim is considered to
12 be paid on an ‘assignment-related basis’ if the claim is paid
13 on the basis of an assignment described in subsection
14 (b)(3)(B)(ii), in accordance with subsection (b)(6)(B), or under
15 the procedure described in section 1870(f)(1).”.

16 (5) EFFECTIVE DATE.—Section 1842(b)(7) of the
17 Social Security Act, as added by paragraph (4) of this
18 subsection, shall apply to explanations of benefits pro-
19 vided on or after such date (not later than April 1,
20 1986) as the Secretary of Health and Human Services
21 shall specify.

1 SEC. 152. PHYSICIAN PAYMENT REVIEW COMMISSION AND
2 DEVELOPMENT OF RELATIVE VALUE SCALE.

3 (a) ESTABLISHMENT OF COMMISSION.—Part B of title
4 XVIII of the Social Security Act is amended by adding at
5 the end the following new section:

6 “PHYSICIAN PAYMENT REVIEW COMMISSION

7 “SEC. 1845. (a)(1) The Director of the Congressional
8 Office of Technology Assessment (hereinafter in this section
9 referred to the the ‘Director’ and the ‘Office’, respectively)
10 shall provide for the appointment of a Physician Payment
11 Review Commission (hereinafter in this section referred to as
12 the ‘Commission’), to be composed of individuals with exper-
13 tise in the provision and financing of physicians’ services ap-
14 pointed by the Director (without regard to the provisions of
15 title 5, United States Code, governing appointments in the
16 competitive service).

17 “(2) The Commission shall consist of 11 individuals.
18 Members of the Commission shall first be appointed no later
19 than December 1, 1985, for a term of three years, except
20 that the Director may provide initially for such shorter terms
21 as will insure that (on a continuing basis) the terms of no
22 more than four members expire in any one year.

23 “(3) The membership of the Commission shall include
24 physicians, other health professionals, individuals skilled in
25 the conduct and interpretation of biomedical, health services,
26 and health economics research, and representatives of con-

1 sumers and the elderly. The Director shall seek nominations
2 from a wide range of groups, including—

3 “(A) national organizations representing physi-
4 cians, including medical specialty organizations,

5 “(B) organizations representing the elderly and
6 consumers,

7 “(C) national organizations representing medical
8 schools,

9 “(D) national organizations representing hospitals,
10 including teaching hospitals, and

11 “(E) national organizations representing health
12 benefits programs.

13 “(b)(1) The Commission shall make recommendations to
14 the Congress, not later than February 1 of each year (begin-
15 ning with 1987), regarding adjustments to the reasonable
16 charge levels for physicians’ services recognized under sec-
17 tion 1842(b) and changes in the methodology for determining
18 the rates of payment, and for making payment, for physi-
19 cians’ services under this title and other items and services
20 under this part.

21 “(2) In making its recommendations, the Commission
22 shall—

23 “(A) consider, and make recommendations on the
24 feasibility and desirability of reducing, the differences
25 in payment amounts for physicians’ services under this

1 part which are based on differences in geographic loca-
2 tion or specialty;

3 “(B) review the input costs (including time, pro-
4 fessional skills, and risks) associated with the provision
5 of different physicians’ services;

6 “(C) identify those charges recognized as reasona-
7 ble under section 1842(b) which are significantly out-
8 of-line, based on the considerations of subparagraphs
9 (A) and (B);

10 “(D) assess the likely impact of different adjust-
11 ments in payment rates, particularly their impact on
12 physician participation in the participation program es-
13 tablished under section 1842(h) and on beneficiary
14 access to necessary physicians’ services;

15 “(E) make recommendations on ways to increase
16 physician participation in that participation program
17 and the acceptance of payment under this part on an
18 assignment-related basis;

19 “(F) make recommendations respecting the advis-
20 ability and feasibility of making changes in the pay-
21 ment system for physicians’ services under this part
22 based on (i) the Secretary’s study under section
23 603(b)(2) of the Social Security Amendments of 1983
24 (relating to payments for physicians’ services furnished
25 to hospital inpatients on the basis of diagnosis-related

1 groups) and (ii) the Office's report under section 2309
2 of the Deficit Reduction Act of 1984 (relating to physi-
3 cian reimbursement under this part);

4 “(G) identify those procedures, involving the use
5 of assistants at surgery, for which payment for those
6 assistants should not be made under this title without
7 prior approval;

8 “(H) identify those procedures for which an opin-
9 ion of a second physician should be required before
10 payment is made under this title; and

11 “(I) evaluate the method for calculating the
12 number of full-time-equivalent residents set forth in
13 section 1902(h)(4)(D) and make recommendations re-
14 garding revisions in, or alternatives to, that method.

15 “(3) The Commission also shall advise and make recom-
16 mendations to the Secretary respecting the development of
17 the relative value scale under subsection (e).

18 “(c)(1) The following provisions of section 1886(e)(6)
19 shall apply to the Commission in the same manner as they
20 apply to the Prospective Payment Assessment Commission:

21 “(A) Subparagraph (C) (relating to staffing and
22 administration generally).

23 “(B) Subparagraph (D) (relating to compensation
24 of members).

1 “(C) Subparagraph (F) (relating to access to
2 information).

3 “(D) Subparagraph (G) (relating to reports and
4 use of funds).

5 “(E) Subparagraph (H) (relating to periodic GAO
6 audits).

7 “(F) Subparagraph (J) (relating to requests for ap-
8 propriations).

9 “(2) In order to carry out its functions, the Commission
10 shall collect and assess information on medical and surgical
11 procedures and services, including information on regional
12 variations of medical practice. In collecting and assessing in-
13 formation, the Commission shall—

14 “(A) utilize existing information, both published
15 and unpublished, where possible, collected and assessed
16 either by its own staff or under other arrangements
17 made in accordance with this section,

18 “(B) carry out, or award grants or contracts for,
19 original research and experimentation, where existing
20 information is inadequate for the development of useful
21 and valid guidelines by the Commission, and

22 “(C) adopt procedures allowing any interested
23 party to submit information with respect to physicians’
24 services (including new practices, such as the use of
25 new technologies and treatment modalities), which in-

1 formation the Commission shall consider in making re-
2 ports and recommendations to the Secretary and Con-
3 gress.

4 “(d) There are authorized to be appropriated such sums
5 as may be necessary to carry out the provisions of this sec-
6 tion. Such sums shall be payable from the Federal Supple-
7 mentary Medical Insurance Trust Fund.”.

8 (b) DEVELOPMENT OF RELATIVE VALUE SCALE FOR
9 PHYSICIANS’ SERVICES.—Section 1845 of the Social Secu-
10 rity Act, as added by subsection (a), is further amended by
11 adding at the end the following new subsection:

12 “(e)(1) The Secretary shall develop a relative value
13 scale that establishes a numerical relationship among the var-
14 ious physicians’ services for which payment may be made
15 under this part or under State plans approved under title
16 XIX.

17 “(2) In developing the scale, the Secretary shall consid-
18 er among other items—

19 “(A) the report of the Office of Technology As-
20 sessment under section 2309 of the Deficit Reduction
21 Act of 1984,

22 “(B) the recommendations of the Physician Pay-
23 ment Review Commission under subsection (b)(3), and

24 “(C) factors with respect to the input costs for
25 furnishing particular physicians’ services, such as—

1 “(i) the differences in costs of furnishing
2 services in different settings,

3 “(ii) the differences in skill levels and train-
4 ing required to perform the services, and

5 “(iii) the time required, and risk involved, in
6 furnishing different services.

7 “(3) The Secretary shall complete the development of
8 the relative value scale under this section, and report to Con-
9 gress on the development, not later than April 1, 1987. The
10 report shall include recommendations for the application of
11 the scale to payment for physicians’ services furnished under
12 this part on or after October 1, 1987.”.

13 **SEC. 153. PAYMENT FOR DURABLE MEDICAL EQUIPMENT.**

14 (a) FREEZING CUSTOMARY AND PREVAILING
15 CHARGES FOR ITEMS FURNISHED ON RENTAL BASIS AND
16 HOME OXYGEN SERVICES.—Section 1842 of the Social Se-
17 curity Act (42 U.S.C. 1395u) is amended by adding at the
18 end the following new subsection:

19 “(k)(1) In determining the customary and prevailing
20 charge levels under the third and fourth sentences of subsec-
21 tion (b)(3)—

22 “(A) for durable medical equipment furnished on a
23 rental basis (other than under a lease-purchase agree-
24 ment), and

25 “(B) for oxygen therapy services furnished,

1 during the 12-month period beginning on October 1, 1985,
2 the Secretary shall not set any such level higher than the
3 same level as was set for the 15-month period beginning July
4 1, 1984. As used in this subsection, the term 'oxygen therapy
5 services' means durable medical equipment, accessories, and
6 supplies for the provision of oxygen therapy in a patient's
7 home."

8 (b) REQUIRING PAYMENT ON AN ASSIGNMENT BASIS
9 FOR DURABLE MEDICAL EQUIPMENT FURNISHED ON A
10 RENTAL BASIS AND FOR OXYGEN THERAPY SERVICES.—

11 Section 1842(k) of such Act, as added by subsection (a), is
12 amended by adding at the end the following new paragraph:

13 "(2) Payment under this part for durable medical equip-
14 ment furnished on a rental basis (other than under a lease-
15 purchase agreement) and for oxygen therapy services may
16 only be made on an assignment-related basis (as defined in
17 subsection (h)(8)) or to a provider of services with an agree-
18 ment in effect under section 1866."

19 (c) LIMITING INCREASE IN PREVAILING CHARGES FOR
20 DURABLE MEDICAL EQUIPMENT TO CONSUMER PRICE
21 INDEX.—Section 1842(k) of such Act, as previously amend-
22 ed, is further amended by adding at the end the following
23 new paragraph:

24 "(3) In the case of durable medical equipment, the pre-
25 vailing charge levels determined for purposes of clause (ii) of

1 the third sentence of subsection (b) for any 12-month period
2 (beginning after September 30, 1986) may not exceed (in the
3 aggregate) the levels determined under such clause (taking
4 into account paragraph (1), if applicable) for the preceding
5 12-month period by a percentage which exceeds the percent-
6 age increase in the Consumer Price Index for all urban con-
7 sumers (U.S. city average), as published by the Secretary of
8 Labor, for the 12-month period ending in March of that pre-
9 ceding 12-month period.”.

10 (d) CLARIFICATION OF PREVIOUS EFFECTIVE
11 DATE.—Section 2306(b)(2) of the Deficit Reduction Act of
12 1984 is amended by adding before the period at the end the
13 following: “and to durable medical equipment furnished on or
14 after July 1, 1985”.

15 (e) EFFECTIVE DATES.—

16 (1) SUBSECTION (a).—The amendments made by
17 subsection (a) shall apply to durable medical equipment
18 (including oxygen therapy services) furnished on or
19 after October 1, 1985.

20 (2) SUBSECTION (b).—The amendments made by
21 subsection (b) shall apply to durable medical equipment
22 furnished on or after January 1, 1986.

23 (3) SUBSECTION (c).—The amendments made by
24 subsection (c) shall apply to durable medical equipment
25 furnished on or after October 1, 1986.

1 (4) SUBSECTION (d).—The amendment made by
2 subsection (d) shall take effect as though it were in-
3 cluded in the enactment of the Deficit Reduction Act
4 of 1984.

5 **SEC. 154. PAYMENT FOR CLINICAL LABORATORY SERVICES.**

6 (a) CHANGING MONTH OF ANNUAL UPDATE FROM
7 JULY TO OCTOBER.—

8 (1) IN GENERAL.—Section 1833(h) of the Social
9 Security Act (42 U.S.C. 1395l(h)) is amended—

10 (A) by striking out “June 30, 1987” and
11 “July 1, 1987” and inserting in lieu thereof
12 “September 30, 1987” and “October 1, 1987”,
13 respectively, each place either appears, and

14 (B) in paragraph (2), by inserting “(to
15 become effective on October 1 of each year)”
16 after “adjusted annually”.

17 (2) EFFECTIVE DATE.—The amendments made
18 by paragraph (1) shall apply to clinical laboratory diag-
19 nostic tests performed on or after July 1, 1986.

20 (3) TRANSITION.—The Secretary of Health and
21 Human Service shall provide that the annual adjust-
22 ment under section 1833(h) of the Social Security Act
23 for 1986—

24 (A) shall take effect on October 1, 1986,

1 (B) shall apply for the 12-month period be-
2 ginning on that date, and

3 (C) shall take into account the percentage in-
4 crease or decrease in the Consumer Price Index
5 for all urban consumers (United States city aver-
6 age) occurring over a 15-month period, rather
7 than over a 12-month period.

8 (b) PROVIDING CEILING ON RATES.—

9 (1) CEILING ON PAYMENTS.—Paragraphs (1)(D)(i)
10 and (2)(D)(i) of section 1833(a) of the Social Security
11 Act (42 U.S.C. 1395l(a)) are each amended by insert-
12 ing after “lesser of the amount determined under such
13 fee schedule” the following: “, the limitation amount
14 for that test determined under subsection (h)(4)(B),”.

15 (2) ESTABLISHMENT OF LIMITATION AMOUNT.—
16 Section 1833(h)(4) of such Act is amended by inserting
17 “(A)” after “(4)” and by adding at the end the follow-
18 ing new subparagraph:

19 “(B) For purposes of subsections (a)(1)(D)(i) and
20 (a)(2)(D)(i), the limitation amount for a clinical diagnostic lab-
21 oratory test performed—

22 “(i) on or after January 1, 1986, and before Octo-
23 ber 1, 1986, is equal to 115 percent of the median of
24 all the fee schedules established for that test for that
25 laboratory setting under paragraph (1), or

1 “(ii) after September 30, 1986, and so long as a
2 fee schedule for the test has not been established on a
3 nationwide basis, is equal to 110 percent of the median
4 of all the fee schedules established for that test for that
5 laboratory setting under paragraph (1).”.

6 (3) EFFECTIVE DATE.—The amendments made
7 by this subsection shall apply to clinical diagnostic lab-
8 oratory tests performed on or after January 1, 1986.

9 (c) REPORT ON MINIMUM STANDARDS FOR CLINICAL
10 LABORATORIES THAT ARE PART OF, OR ASSOCIATED
11 WITH, PHYSICIANS’ OFFICES.—The Secretary of Health
12 and Human Services shall report to Congress, not later than
13 12 months after the date of the enactment of this Act, on the
14 standards that might be established under the medicare pro-
15 gram for clinical laboratories which are part of or associated
16 with a physician’s office to assure the health and safety of
17 individuals with respect to whom the laboratories perform
18 clinical diagnostic laboratory tests for which payment may be
19 made under the program. In recommending standards, the
20 Secretary shall consider the differences in the scope, type,
21 and complexity of tests performed by such laboratories and
22 such other factors as may indicate a need for different stand-
23 ards for laboratories with different characteristics.

1 SEC. 155. VISION CARE.

2 (a) DEFINING SERVICES AN OPTOMETRIST CAN PRO-
3 VIDE.—Clause (4) of section 1861(r) of the Social Security
4 Act (42 U.S.C. 1395x(r)) is amended to read as follows: “(4)
5 a doctor of optometry, but only with respect to the provision
6 of items or services described in subsection (s) which he is
7 legally authorized to perform as a doctor of optometry by the
8 State in which he performs them, or”.

9 (b) EFFECTIVE DATE.—The amendment made by sub-
10 section (a) shall apply to services furnished on or after April
11 1, 1986.

12 SEC. 156. SECOND OPINIONS.

13 (a) IN GENERAL.—Title XVIII of the Social Security
14 Act is amended by adding at the end the following new
15 section:

16 “SECOND OPINIONS FOR CERTAIN SURGICAL PROCEDURES

17 “SEC. 1890. (a) CONDITION OF PAYMENT.—No pay-
18 ment shall be made under part A or part B with respect to
19 items or services furnished in connection with a surgical pro-
20 cedure listed by the Secretary pursuant to this section unless
21 the individual undergoing the procedure obtains a second
22 opinion as to the necessity and appropriateness of such proce-
23 dure, in accordance with this section. For purposes of deter-
24 mining whether an opinion is the second opinion, the first
25 opinion must be made by a physician who is qualified to per-
26 form the surgical procedure, and the second opinion is any

1 subsequent opinion made by a physician of the appropriate
2 speciality, as determined under subsection (b)(3). Such second
3 opinion need not necessarily agree with the first opinion in
4 order for payment to be made.

5 “(b) SURGICAL PROCEDURES TO WHICH CONDITION
6 APPLIES.—

7 “(1) SECRETARY TO ESTABLISH LIST.—The Sec-
8 retary shall establish a list of not less than 10 surgical
9 procedures to which the requirements of this section
10 shall apply. The Secretary shall establish such list
11 based upon the following criteria:

12 “(A) The procedure is one which generally
13 can be postponed without undue risk to the
14 patient.

15 “(B) The procedure is a high volume proce-
16 dure among patients who are covered under the
17 programs established under this title, or is a high
18 cost procedure.

19 “(C) The procedure has a comparatively high
20 rate of nonconfirmation upon requesting a second
21 opinion, based upon data available to the Secre-
22 tary from any sources.

23 “(2) LIST VARIATIONS.—The Secretary may vary
24 the list on a State-by-State basis, or within areas of a
25 State, if data available with regard to volume and costs

1 of procedures suggest that to do so would be cost ef-
2 fective and would better serve the purposes of this
3 section.

4 “(3) LIST TO SPECIFY SPECIALISTS WHO MUST
5 RENDER SECOND OPINION.—The Secretary shall
6 specify, for each procedure on a list established under
7 this subsection, the type or types of board certified or
8 board eligible specialists who must be consulted
9 for the second opinion, based upon the nature of
10 the procedure.

11 “(c) REFERRAL MECHANISM FOR SECOND
12 OPINIONS.—

13 “(1) USE OF PRO AS REFERRAL CENTER.—The
14 Secretary shall enter into or modify contracts with uti-
15 lization and quality control peer review organizations
16 under which such organizations shall serve as referral
17 centers for second opinions required under this section.

18 “(2) REFERRAL OF PATIENT.—The organization
19 shall maintain a list of physicians qualified to provide a
20 second opinion and shall advise the patient as to which
21 physicians are participating physicians (within the
22 meaning of section 1842(h)) and which physicians have
23 agreed to accept assignment for second opinions. If the
24 patient seeking the second opinion so requests, the or-
25 ganization shall refer such patient to a physician of the

1 appropriate specialty for purposes of providing the
2 second opinion.

3 “(3) FREEDOM OF CHOICE OF PATIENT TO
4 CHOOSE PHYSICIAN.—Subject to paragraph (4), the
5 patient may choose any physician of the proper special-
6 ty to provide the second opinion.

7 “(4) PHYSICIANS PROHIBITED FROM PROVIDING
8 SECOND OPINION.—For purposes of this section, a
9 second opinion may not be provided by a physician
10 who is affiliated with, or has any direct or indirect
11 common financial interest with, the physician who
12 rendered the first opinion that the procedure was
13 necessary.

14 “(5) FORWARDING OF RELEVANT MEDICAL
15 RECORDS.—Each such organization shall, if the patient
16 seeking the second opinion so requests, obtain the rele-
17 vant medical records from the physician who rendered
18 the first opinion that the procedure was necessary, and
19 provide the relevant information to the physician se-
20 lected by the patient to render the second opinion in
21 such form so as not to identify the physician who ren-
22 dered the first opinion.

23 “(6) USE OF OTHER ENTITIES AS REFERRAL
24 CENTERS.—(A) If no utilization and quality control
25 peer review organization is available to perform the

1 functions described in this subsection, the Secretary
2 may enter into an agreement with a State or local
3 agency or appropriate private entity to perform such
4 functions.

5 “(B) If a State is utilizing an entity other than a
6 utilization and quality control peer review organization
7 to provide referrals for second opinions for purposes of
8 title XIX, the Secretary may enter into an agreement
9 under this section with such entity (rather than with a
10 utilization and quality control peer review organization)
11 to perform the functions described in this section if the
12 Secretary determines that such arrangement would be
13 more cost effective and would adequately protect the
14 patients receiving benefits under this title.

15 “(C) If the Secretary determines that a utilization
16 and quality control peer review organization is not able
17 to perform the referral services described in this sub-
18 section in a manner that adequately protects patients,
19 the Secretary may enter into an agreement with a
20 State or local agency or appropriate private entity to
21 perform such functions.

22 “(d) EXCEPTIONS TO REQUIREMENT.—The require-
23 ments of this section shall not apply—

24 “(1) if delay in providing the surgical procedure
25 would result in a risk to the patient;

1 “(2) if no physician is available (within such rea-
2 sonable limits as the Secretary shall determine by reg-
3 ulation) who is (A) an appropriate specialist, and (B) a
4 participating physician or a physician who has agreed
5 to accept assignment for the second opinion; or

6 “(3) the surgical procedure is to be performed on
7 a patient who is a member of a health maintenance or-
8 ganization or competitive medical plan having a risk-
9 sharing contract with the Secretary under section
10 1876(g).

11 “(e) DUTIES OF PHYSICIANS, HOSPITALS, AND AMBU-
12 LATORY SURGICAL CENTERS TO NOTIFY PATIENTS.—

13 “(1) NOTICE.—Any physician, before performing
14 a surgical procedure which requires a second opinion
15 pursuant to this section, and any hospital or ambulator-
16 y surgical center, before a patient is furnished services
17 at the hospital or center in connection with the per-
18 formance of such a procedure, shall inform the patient
19 in writing of the necessity of obtaining a second opin-
20 ion, and make available to the patient, or to the entity
21 performing referral services under subsection (c) if so
22 requested by the patient, any medical records available
23 to such physician, hospital, or center that are neces-
24 sary in order for the patient to obtain such second
25 opinion.

1 “(2) SANCTIONS.—(A) In the case of any physi-
2 cian, hospital, or ambulatory surgical center which fails
3 to notify a patient of the need to obtain a second opin-
4 ion or fails to make available medical records, as re-
5 quired under paragraph (1), the Secretary may—

6 “(i) impose a civil monetary penalty and as-
7 sessment, in the same manner as such penalties
8 are authorized under section 1128A(a), or

9 “(ii) in the case of a second or subsequent
10 failure, bar the physician, hospital, or ambulatory
11 surgical center from participation under the pro-
12 gram under this title for a period not to exceed 5
13 years, in accordance with the procedures of para-
14 graphs (2) and (3) of section 1862(d),
15 or both. No payment may be made under this title with
16 respect to any item or service furnished by a physician,
17 hospital, or ambulatory surgical center during the
18 period when it is barred from participation in the pro-
19 gram under this title pursuant to this subsection.

20 “(B) The Secretary may not bar a physician, hos-
21 pital, or ambulatory surgical center pursuant to sub-
22 paragraph (A) if such physician, hospital, or ambulatory
23 surgical center is a sole source of essential services
24 in a community.

1 “(C) The Secretary shall take into account access
2 of beneficiaries to physicians’ services, hospital serv-
3 ices, and other surgical facility services for which pay-
4 ment may be made under this title in determining
5 whether to bar a physician, hospital, or ambulatory
6 surgical center from participation pursuant to subpara-
7 graph (A).

8 “(D) In any case where payment under this title
9 is denied by reason of this section, and a physician,
10 hospital, or ambulatory surgical center failed to notify
11 the patient as required by paragraph (1), the Secretary
12 shall, out of any civil monetary penalty or assessment
13 collected from such physician, hospital, or ambulatory
14 surgical center pursuant to this subsection, make a
15 payment to the patient in the nature of restitution for
16 amounts paid by such patient to such physician, hospi-
17 tal, or ambulatory surgical center which otherwise
18 would have been paid under this title.

19 “(f) NOTICE BY SECRETARY.—

20 “(1) NOTICE TO PHYSICIANS, HOSPITALS, AND
21 AMBULATORY SURGICAL CENTERS.—The Secretary
22 shall notify all physicians, all hospitals having agree-
23 ments under section 1866, and all ambulatory surgical
24 centers having an agreement with the Secretary de-
25 scribed in section 1832(a)(2)(F) of the requirements of

1 this section. The notice shall include the applicable list
2 of surgical procedures to which such requirements
3 apply, and a description of the penalties for failure to
4 notify a patient concerning such requirements.

5 “(2) NOTICE TO BENEFICIARIES.—The Secretary
6 shall provide for periodic notice to all beneficiaries
7 under this title of the requirements of this section, in-
8 cluding the applicable list of the surgical procedures to
9 which such requirements apply and information about
10 the availability of the referral services described in this
11 section. The Secretary shall make the applicable lists
12 and information about referral services available at dis-
13 trict and branch offices of the Social Security Adminis-
14 tration, in the offices of carriers, and to senior citizen
15 organizations.”.

16 (b) WAIVER OF DEDUCTIBLE AND COPAYMENTS.—

17 (1) DEDUCTIBLE.—Section 1833(b) of the Social
18 Security Act (42 U.S.C. 1395l(b)) is amended by strik-
19 ing out “and” before “(4)”, and by inserting before the
20 period at the end of the first sentence the following: “,
21 and (5) such deductible shall not apply with respect to
22 items and services furnished in connection with obtain-
23 ing a second opinion required under section 1890 (or a
24 third opinion, if such second opinion was in disagree-
25 ment with the first opinion)”.

1 (2) COPAYMENTS.—(A) Section 1833(a)(1) of
2 such Act (42 U.S.C. 1395l(a)(1)) is amended by strik-
3 ing out “and” before “(F)”, and by adding at the end
4 thereof the following: “and (G) with respect to items
5 and services furnished in connection with obtaining a
6 second opinion required under section 1890 (or a third
7 opinion, if such second opinion was in disagreement
8 with the first opinion), the amounts paid shall be 100
9 percent of the reasonable charges for such items and
10 services;”.

11 (B) Section 1833(a)(2)(A) of such Act (42 U.S.C.
12 1395l(a)(2)(A)) is amended by inserting “, items and
13 services furnished in connection with obtaining a
14 second opinion required under section 1890 (or a third
15 opinion, if such second opinion was in disagreement
16 with the first opinion),” after “(other than durable
17 medical equipment)”.

18 (C) Section 1833(a)(2)(D) of such Act (42 U.S.C.
19 1395l(a)(2)(D)) is amended by striking out “or to a pro-
20 vider having an agreement under section 1866” and
21 inserting in lieu thereof “to a provider having an
22 agreement under section 1866, or for tests furnished in
23 connection with obtaining a second opinion required
24 under section 1890 (or a third opinion, if such second
25 opinion was in disagreement with the first opinion)”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) EXCLUSIONS FROM COVERAGE.—Section
3 1862(a) of the Social Security Act (42 U.S.C.
4 1395g(a)), as amended by section 147(a) of this Act, is
5 amended—

6 (A) by striking out “or” at the end of para-
7 graph (14);

8 (B) by striking out the period at the end of
9 paragraph (15) and inserting in lieu thereof
10 “; or”; and

11 (C) by adding at the end thereof the follow-
12 ing new paragraph:

13 “(16) furnished in connection with a surgical pro-
14 cedure if a second opinion is required under section
15 1890 but is not obtained.”.

16 (2) PROVIDER AGREEMENTS.—Section 1866(a)(1)
17 of such Act (42 U.S.C. 1395cc(a)(1)) is amended—

18 (A) by striking out “and” at the end of sub-
19 paragraph (G);

20 (B) by striking out the period at the end of
21 subparagraph (H) and inserting in lieu thereof
22 “, and”; and

23 (C) by inserting after subparagraph (H) the
24 following new subparagraph:

1 “(I) to notify beneficiaries under this title for
2 whom surgery is to be performed of the need to obtain
3 a second opinion if such surgery is a procedure listed
4 pursuant to section 1890.”.

5 (3) FUNCTIONS OF PEER REVIEW ORGANIZA-
6 TIONS.—Section 1154(a) of such Act (42 U.S.C.
7 1395c-3(a)) is amended by adding at the end thereof
8 the following new paragraph:

9 “(12) The organization shall perform the referral
10 functions for second opinions described in section
11 1890(c).”.

12 (d) EFFECTIVE DATES.—(1) The amendments made by
13 subsection (a) shall apply to items and services furnished on
14 or after the first day of the first month which begins more
15 than 6 months after the date of the enactment of this Act.

16 (2) The Secretary of Health and Human Services shall
17 promulgate final regulations necessary to implement the
18 amendments made by this section within 6 months after the
19 date of the enactment of this Act.

20 (e) INTERIM LIST.—(1) If the Secretary of Health and
21 Human Services has not established a list or lists of surgical
22 procedures requiring second opinions, as required under sec-
23 tion 1890 of the Social Security Act, within 6 months after
24 the date of the enactment of this Act, then the following list
25 shall be in effect for purposes of such section:

1 Coronary artery bypass.

2 Cardiac pacemaker implantation.

3 Cataract surgery.

4 Gall bladder surgery.

5 Prostate surgery.

6 Knee surgery.

7 Hysterectomy.

8 Back surgery.

9 Hernia repair.

10 Hemorrhoidectomy.

11 (2) The list in paragraph (1) shall remain in effect until
12 such time as the Secretary establishes a new list for the ap-
13 plicable State or area pursuant to section 1890.

14 (f) STUDY.—The Secretary of Health and Human Serv-
15 ices shall conduct a study of the results of the amendments
16 made by this section. Such study shall include any changes in
17 utilization of surgical procedures, changes in nonconfirmation
18 rates of second opinions, and outcomes in cases where sur-
19 gery is not done after a second opinion failed to confirm the
20 necessity of the surgical procedure. The Secretary shall
21 report the results of the study to the Congress within 30
22 months after the date of the enactment of this Act.

23 **SEC. 157. CHANGING MEDICARE APPEAL RIGHTS.**

24 (a) PERMITTING PROVIDER REPRESENTATION OF
25 BENEFICIARIES.—Section 1869(b)(1) of the Social Security

1 Act (42 U.S.C. 1395ff(b)(1)) is amended by adding at the end
2 the following new sentence: "Sections 206(a), 1102, and
3 1871 shall not be construed as authorizing the Secretary to
4 prohibit an individual from being represented under this sub-
5 section by a person that furnishes or supplies the individual,
6 directly or indirectly, with services or items solely on the
7 basis that the person furnishes or supplies the individual with
8 such a service or item."

9 (b) REVIEW OF PART B DETERMINATIONS.—(1)
10 Section 1869 of such Act (42 U.S.C. 1395ff) is further
11 amended—

12 (A) by inserting "or part B" in subsection (a)
13 after "amount of benefits under part A",

14 (B) by inserting "or part B" in subsection
15 (b)(1)(C) after "part A", and

16 (C) by amending paragraph (2) of subsection (b) to
17 read as follows:

18 "(2) Notwithstanding paragraph (1)(C), in the case of a
19 claim arising—

20 "(A) under part A, a hearing shall not be avail-
21 able to an individual under paragraph (1)(C) if the
22 amount in controversy is less than \$100 and judicial
23 review shall not be available to the individual under
24 that paragraph if the amount in controversy is less
25 than \$1,000; or

“(B) under part B, a hearing shall not be available to an individual under paragraph (1)(C) if the amount in controversy is less than \$500 and judicial review shall not be available to the individual under that paragraph if the aggregate amount in controversy is less than \$1,000.

In determining the amount in controversy, the Secretary, under regulations, shall allow two or more claims to be aggregated if the claims involve the delivery of similar or related services to the same individual or involve common issues of law and fact arising from services furnished to two or more individuals.”.

(2) Section 1842(b)(3)(C) of such Act (42 U.S.C. 1395u(b)(3)(C)) is amended by striking out “\$100 or more” and inserting in lieu thereof “at least \$100, but not more than \$500”.

(3) Section 1879(d) of such Act (42 U.S.C. 1395pp(d)) is amended by striking out “section 1869(b)” and all that follows through “part B)” and inserting in lieu thereof “sections 1869(b) and 1842(b)(3)(C) (as may be applicable)”.

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) takes effect on the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply to claims submitted on or after October 1, 1985.

1 SEC. 158. EXTENSION OF ON LOK WAIVER.

2 (a) CONTINUED APPROVAL.—

3 (1) MEDICARE WAIVERS.—Notwithstanding any
4 limitations contained in section 222 of the Social Secu-
5 rity Amendments of 1972 and section 402(a) of the
6 Social Security Amendments of 1967, the Secretary of
7 Health and Human Services shall continue approval of
8 the risk-sharing application (described in section
9 603(c)(1) of Public Law 98-21) for waivers of certain
10 requirements of title XVIII of the Social Security Act
11 after the end of the period described in that section.

12 (2) MEDICAID WAIVERS.—Notwithstanding any
13 limitations contained in section 1115 of the Social Se-
14 curity Act, the Secretary shall approve any application
15 of the Department of Health Services, State of Califor-
16 nia, for a waiver of requirements of title XIX of such
17 Act in order to continue carrying out the demonstra-
18 tion project referred to in section 603(c)(2) of Public
19 Law 98-21 after the end of the period described in that
20 section.

21 (b) TERMS, CONDITIONS, AND PERIOD OF APPROV-
22 AL.—The Secretary's approval of an application (or renewal
23 of an application) under this section—

24 (1) shall be on the same terms and conditions as
25 applied with respect to the corresponding application
26 under section 603(c) of Public Law 98-21 as of July 1,

1 1985, except that requirements relating to collection
2 and evaluation of information for demonstration pur-
3 poses (and not for operational purposes) shall not
4 apply; and

5 (2) shall remain in effect until such time as the
6 Secretary finds that the applicant no longer complies
7 with the terms and conditions described in paragraph
8 (1).

9 **PART E—CHANGES RELATING TO THE MEDICAID**
10 **PROGRAM**

11 **SEC. 161. SERVICES FOR PREGNANT WOMEN.**

12 (a) **EXPANDED COVERAGE.**—Section 1905(n)(1) of the
13 Social Security Act (42 U.S.C. 1396d(n)(1)) is amended—

14 (1) by striking out “; or” at the end of subpara-
15 graph (A) and inserting in lieu thereof a comma,

16 (2) by striking out “; and” at the end of subpara-
17 graph (B) and inserting in lieu thereof “, or”, and

18 (3) by adding after subparagraph (B) the following
19 new subparagraph:

20 “(C) otherwise meets the income and resources
21 requirements of a State plan under part A of title IV;
22 and”.

23 (b) **OPTIONAL EXPANSION OF PREGNANCY-RELATED**
24 **SERVICES.**—Section 1902(a)(10) of such Act (42 U.S.C.

1 1396a(a)(10)) is amended, in the matter after subparagraph
2 (D) thereof—

3 (1) by striking out “and” before “(IV)” and in-
4 serting in lieu thereof a comma, and

5 (2) by inserting before the semicolon the follow-
6 ing: “, and (V) the making available to all pregnant
7 women covered under the plan of services relating to
8 pregnancy (including pre-natal, delivery, and post-
9 partum services) or to any other condition which may
10 complicate pregnancy shall not, by reason of subpara-
11 graph (B), require the making available of these serv-
12 ices, or the making available of such services of the
13 same amount, duration, and scope, to any other
14 individuals”.

15 (c) POST-PARTUM ELIGIBILITY FOR PREGNANT
16 WOMEN.—Section 1902(e) of such Act (42 U.S.C. 1396b(e))
17 is amended by adding at the end the following new
18 paragraph:

19 “(5) A woman who, while pregnant, is eligible for, has
20 applied for, and has received medical assistance under the
21 State plan, shall be deemed to remain pregnant, for purposes
22 of the provision of all pregnancy-related and post-partum
23 medical assistance under the plan, until the end of the 60-day
24 period beginning on the last day of her pregnancy.”.

25 (d) EFFECTIVE DATES.—

1 (1) EXPANDED COVERAGE.—(A) The amend-
2 ments made by subsection (a) apply (except as provided
3 under subparagraph (B)) to payments under title XIX
4 of the Social Security Act for calendar quarters begin-
5 ning on or after October 1, 1985, without regard to
6 whether or not final regulations to carry out the
7 amendments have been promulgated by that date.

8 (B) In the case of a State plan for medical assist-
9 ance under title XIX of the Social Security Act which
10 the Secretary of Health and Human Services deter-
11 mines requires State legislation (other than legislation
12 appropriating funds) in order for the plan to meet the
13 additional requirement imposed by the amendments
14 made by subsection (a), the State plan shall not be re-
15 garded as failing to comply with the requirements of
16 such title solely on the basis of its failure to meet this
17 additional requirement before the first day of the first
18 calendar quarter beginning after the close of the first
19 regular session of the State legislature that begins after
20 the date of the enactment of this Act.

21 (2) OPTIONAL SERVICES.—The amendments
22 made by subsection (b) shall take effect on October 1,
23 1985.

24 (3) CONTINUED COVERAGE.—The amendment
25 made by subsection (c) shall apply to medical assist-

1 ance furnished to a woman on or after October 1,
2 1985.

3 **SEC. 162. MODIFICATIONS OF HOME AND COMMUNITY-BASED**
4 **WAIVER UNDER SECTION 1915(c).**

5 (a) **EXPLICIT INCLUSION OF CERTAIN VOCATIONAL,**
6 **PREVOCATIONAL, AND EDUCATIONAL SERVICES.**—Section
7 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) is
8 amended by adding at the end the following new paragraph:

9 “(5) For purposes of paragraph (4)(B), the term ‘habili-
10 tation services’, with respect to individuals who receive such
11 services after discharge from a skilled nursing facility or in-
12 termediate care facility—

13 “(A) means services designed to assist individuals
14 in acquiring, retaining, and improving the self-help, so-
15 cialization, and adaptive skills necessary to reside suc-
16 cessfully in home and community based settings, and

17 “(B) includes (except as provided in subparagraph
18 (C)) prevocational, educational, and supported employ-
19 ment services, but

20 “(C) does not include—

21 “(i) special education and related services (as
22 defined in section 602(16) and (17) of the Educa-
23 tion of the Handicapped Act (20 U.S.C. 1401(16),
24 (17)) which otherwise are available to the individ-
25 ual through a local educational agency, and

“(ii) vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).”.

(b) PERMITTING HOSPITAL LEVEL OF CARE FOR CERTAIN PARTICIPANTS.—(1) Paragraph (1) of such section is amended by inserting “or but for the provision of such services the individuals would continue to receive inpatient hospital services because they are dependent on ventilator support the cost of which is reimbursed under the State plan” before the period at the end.

(2) Paragraph (2)(C) of such section is amended—

(A) by inserting “hospital or” after “provided in a”, and

(B) by inserting “inpatient hospital services or” after “the provision of”.

(c) PROHIBITING IMPOSITION OF CERTAIN REGULATORY LIMITS.—Such section, as amended by subsection (a), is further amended—

(1) in paragraph (2)(D), by inserting “100 percent of” after “does not exceed”, and

(2) by adding at the end the following new paragraph:

“(6) The Secretary may not require, as a condition of approval of a waiver under this section under paragraph

1 (2)(D), that the actual total expenditures for home and com-
2 munity-based services under the waiver (and a claim for Fed-
3 eral financial participation in expenditures for the services)
4 cannot exceed the approved estimates for these services. The
5 Secretary may not deny Federal financial payment with re-
6 spect to services under such a waiver on the ground that, in
7 order to comply with paragraph (2)(D), a State has failed to
8 comply with such a requirement.”.

9 (d) COMPUTATION OF EXPENDITURES FOR CERTAIN
10 DISABLED PATIENTS.—Such section, as amended by sub-
11 section (c), is further amended by adding at the end the fol-
12 lowing new paragraph:

13 “(7) In making estimates under paragraph (2)(D) in the
14 case of a waiver which applies only to physically disabled
15 individuals who are inpatients in skilled nursing or intermedi-
16 ate care facilities, the State may determine the average per
17 capita expenditure which would have been made in a fiscal
18 year for those individuals under the State plan separately
19 from the expenditure for other individuals who are inpatients
20 of those facilities.”.

21 (e) PERMITTING FLEXIBILITY IN ESTABLISHING
22 MAINTENANCE INCOME STANDARDS.—Paragraph (3) of
23 such section is amended by adding at the end the following
24 new sentence: “A waiver may provide, with respect to post-
25 eligibility treatment of income of all individuals receiving

1 services under that waiver, that the maximum amount of the
2 individual's income which may be disregarded for any month
3 for the maintenance needs of the individual may be an
4 amount greater than the maximum allowed for that purpose
5 under regulations in effect on July 1, 1985."

6 (f) EFFECTIVE DATES.—

7 (1) HABILITATION SERVICES AND HOSPITALIZED
8 PATIENTS.—The amendments made by subsections (a)
9 and (b) are effective for services furnished on or after
10 October 1, 1985.

11 (2) PROHIBITION OF REGULATORY LIMITS AND
12 TREATMENT OF CERTAIN PHYSICALLY DISABLED IN-
13 DIVIDUALS.—The amendments made by subsections (c)
14 and (d) shall apply to applications for waivers filed
15 before, on, or after, the date of the enactment of this
16 Act and for services furnished on or after August 13,
17 1981.

18 (3) INCOME STANDARDS.—The amendment made
19 by subsection (e) shall apply to waivers approved on or
20 after the date of the enactment of this Act.

21 (g) TASK FORCE ON ALTERNATIVE CARE FOR TECH-
22 NOLOGY-DEPENDENT, CHRONICALLY ILL CHILDREN.—(1)
23 The Secretary of Health and Human Services, within six
24 months after the date of the enactment of this Act, shall es-
25 tablish a task force concerning alternatives to institutional

1 care for technology-dependent children (as defined in para-
2 graph (5)).

3 (2) The task force shall include representatives of Fed-
4 eral and State agencies with responsibilities relating to child
5 health, health insurers, large employers (including those that
6 self-insure for health care costs), providers of health care to
7 technology-dependent children, and parents of technology-de-
8 pendent children.

9 (3) The task force shall—

10 (A) identify barriers that prevent the provision of
11 appropriate care in a home or community-setting to
12 meet the special needs of technology-dependent chi-
13 dren, and

14 (B) recommend changes in the provision and fi-
15 nancing of health care in private and public health care
16 programs (including appropriate joint public-private ini-
17 tiatives) so as to provide home and community-based
18 alternatives to the institutionalization of technology-
19 dependent children.

20 (4) The task force shall make a final report to the Secre-
21 tary and to the Congress on its activities not later than two
22 years after the date of the enactment of this Act.

23 (5) In this subsection, the term “technology-dependent
24 child” means a child who has a chronic illness which makes

1 the child dependent upon the continuing use of medical care
2 technology (such as a ventilator).

3 **SEC. 163. OPTIONAL HOSPICE BENEFITS.**

4 (a) **COVERAGE OF HOSPICE CARE AS AN OPTIONAL**
5 **MEDICAID BENEFIT.**—Section 1905 of the Social Security
6 Act (42 U.S.C. 1396d) is amended—

7 (1) in subsection (a)—

8 (A) by striking out “and” at the end of para-
9 graph (17),

10 (B) by redesignating paragraph (18) as para-
11 graph (19), and

12 (C) by inserting after paragraph (17) the fol-
13 lowing new paragraph:

14 “(18) hospice care (as defined in subsection (o));
15 and”; and

16 (2) by adding at the end the following new
17 subsection:

18 “(o)(1) The term ‘hospice care’ means the care described
19 in section 1861(dd)(1) furnished by a public, or private non-
20 profit, hospice program (as defined in section 1861(dd)(2)) to
21 a terminally ill individual who has voluntarily elected (in ac-
22 cordance with paragraph (2)) to receive hospice care instead
23 of certain other benefits (described in section 1812(d)(2))
24 under the plan.

1 “(2) An individual’s voluntary election under this sub-
2 section—

3 “(A) shall be made in accordance with procedures
4 that are established by the State and that are consist-
5 ent with the procedures established under section
6 1812(d)(2),

7 “(B) shall be for such a period or periods (which
8 need not be the same periods described in section
9 1812(d)(1)) as the State may establish, and

10 “(C) may be revoked at any time without a show-
11 ing of cause and may be modified so as to change the
12 hospice program with respect to which a previous elec-
13 tion was made.”.

14 (b) ELIGIBILITY.—

15 (1) LIMITATION TO TERMINALLY ILL INDIVID-
16 UALS.—Section 1902(a)(10) of such Act (42 U.S.C.
17 1396a(a)(10)), as amended by section 161(b) of this
18 Act, is further amended, in the matter following sub-
19 paragraph (D), by striking out “and” before “(V)” and
20 by inserting before the semicolon the following: “, and
21 (VI) with respect to the making available of medical
22 assistance for hospice care to terminally ill individuals
23 who have made a voluntary election described in sec-
24 tion 1905(o) to receive hospice care instead of medical
25 assistance for certain other services, such assistance

1 may not be made available in an amount, duration, or
 2 scope less than that provided under title XVIII, and
 3 the making available of such assistance shall not, by
 4 reason of this paragraph (10), require the making avail-
 5 able of medical assistance for hospice care to other in-
 6 dividuals or the making available of medical assistance
 7 for services waived by such terminally ill individuals”.

8 (2) HIGHER INCOME STANDARD PERMITTED.—

9 Section 1902(a)(10)(A)(ii) of such Act (42 U.S.C.
 10 1396a(a)(10)(A)(ii)) is amended—

11 (A) by striking out “or” at the end of sub-
 12 clause (V),

13 (B) by striking out the semicolon at the end
 14 of subclause (VI) and inserting in lieu thereof
 15 “, or”, and

16 (C) by adding at the end the following new
 17 subclause:

18 “(VII) who would be eligible under
 19 the State plan under this title if they
 20 were in a medical institution, who are
 21 terminally ill, and who will receive hos-
 22 pice care pursuant to a voluntary elec-
 23 tion described in section 1905(o);”.

24 (c) PAYMENT FOR HOSPICE CARE.—

1 (1) USE OF MEDICARE RATES.—Section
2 1902(a)(13) of such Act (42 U.S.C. 1396a(a)(13)) is
3 amended—

4 (A) by striking out “and” at the end of sub-
5 paragraph (B),

6 (B) by redesignating subparagraph (C) as
7 subparagraph (D), and

8 (C) by inserting after subparagraph (B) the
9 following new subparagraph:

10 “(C) for payment for hospice care in the
11 same amounts, and using the same methodology,
12 as used under part A of title XVIII; and”.

13 (2) LIMITATION ON COPAYMENTS.—Subsections
14 (a)(2) and (b)(2) of section 1916 of the Social Security
15 Act (42 U.S.C. 1396o) are each amended—

16 (A) by striking out “or” at the end of sub-
17 paragraph (C),

18 (B) by striking out “; and” at the end of sub-
19 paragraph (D) and inserting in lieu thereof “, or”,
20 and

21 (C) by adding at the end the following new
22 subparagraph:

23 “(E) services furnished to an individual who
24 is receiving hospice care (as defined in section
25 1905(o)); and”.

(d) CONFORMING AMENDMENTS.—

(1) Section 1902(j) of such Act (42 U.S.C. 1396a(j)) is amended by striking out “(18)” and inserting in lieu thereof “(19)”.

(2) Section 1902(a)(10)(C)(iv) of such Act (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking out “through (17)” and inserting in lieu thereof “through (18)”.

(e) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance provided for hospice care furnished on or after October 1, 1985.

SEC. 164. MEDICAID PAYMENTS FOR DIRECT MEDICAL EDUCATION COSTS OF HOSPITALS.

(a) MEDICAID PAYMENT METHODOLOGY.—Section 1902 of the Social Security Act (42 U.S.C. 1396a), as amended by section 163(c)(1) of this Act, is further amended—

(1) in paragraph (13) of subsection (a)—

(A) by striking out “and” at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting after subparagraph (C) the following new subparagraph:

1 “(D) for payment to hospitals for direct med-
2 ical education costs in amounts determined in ac-
3 cordance with subsection (h); and”; and

4 (2) by inserting before subsection (i) the following
5 new subsection:

6 “(h) PAYMENTS FOR DIRECT MEDICAL EDUCATION
7 COSTS.—

8 “(1) SUBSTITUTION OF SPECIAL PAYMENT
9 RULES.—Instead of any amounts that are otherwise
10 payable under a State plan with respect to the costs of
11 hospitals for direct medical education costs, the State
12 shall provide for payments to hospitals for such costs in
13 accordance with paragraph (3) of this subsection.

14 “(2) DETERMINATION OF HOSPITAL-SPECIFIC
15 APPROVED FTE RESIDENT AMOUNTS.—The Secretary
16 shall determine, for each hospital with an approved
17 medical residency training program, an approved FTE
18 resident amount for each residency year beginning on
19 or after July 1, 1985, as follows:

20 “(A) DETERMINING ALLOWABLE AVERAGE
21 COST PER FTE RESIDENT IN A HOSPITAL’S BASE
22 PERIOD.—The Secretary shall determine, based
23 on data from the most recent available audited
24 cost report of the hospital, the average amount
25 recognized as reasonable under title XVIII for

1 direct medical education costs of the hospital for
2 each full-time-equivalent resident.

3 “(B) UPDATING UP THROUGH JUNE 1985.—

4 The Secretary shall update each average amount
5 determined under subparagraph (A) through June
6 1985 by the percentage increase in the consumer
7 price index from the midpoint of the cost report-
8 ing periods used under subparagraph (A) to the
9 end of December 1984.

10 “(C) AMOUNT FOR RESIDENCY YEAR BEGIN-

11 NING JULY 1, 1985.—For the residency year be-
12 ginning July 1, 1985, the approved FTE resident
13 amount for each hospital is equal to the amount
14 determined under paragraph (B) for that hospital
15 updated, to the end of December 1985, by pro-
16 jecting the estimated percentage increase in the
17 consumer price index during the 12-month period
18 ending with December 1985.

19 “(D) AMOUNT FOR SUBSEQUENT RESIDEN-

20 CY YEARS.—

21 “(i) GENERAL RULE.—Except as pro-

22 vided in clause (ii), for each residency year
23 beginning after July 1, 1985, the approved
24 FTE resident amount for each hospital is
25 equal to the amount determined under this

1 paragraph for the previous residency year
2 updated by projecting the estimated percent-
3 age change in the consumer price index
4 during the 12-month period ending with De-
5 cember of that residency year, with appropri-
6 ate adjustments to reflect previous under- or
7 over-estimations under this paragraph in the
8 projected percentage change in the consumer
9 price index.

10 “(ii) LIMITATION ON APPROVED FTE
11 RESIDENT AMOUNTS.—The approved FTE
12 resident amount for a hospital for a residency
13 year may not exceed—

14 “(I) for the residency year begin-
15 ning on July 1, 1986, 175 percent,

16 “(II) for the residency year begin-
17 ning on July 1, 1987, 150 percent, and

18 “(III) for residency years begin-
19 ning on or after July 1, 1988, 125 per-
20 cent,

21 of the median amounts determined under
22 clause (i) for all the hospitals in the United
23 States for that residency year.

24 “(E) TREATMENT OF CERTAIN HOSPI-
25 TALS.—In the case of a hospital that did not

1 have an approved medical residency training pro-
 2 gram and was not participating in the program
 3 under title XVIII for a cost reporting period
 4 ending before 1985, the Secretary shall provide,
 5 for the first such period for which it has such a
 6 residency training program and is participating
 7 under this title, for such approved FTE resident
 8 amount as the Secretary determines to be appro-
 9 priate, based on comparable approved FTE resi-
 10 dent amounts for similar programs of similar hos-
 11 pitals located in similar areas.

12 “(3) HOSPITAL PAYMENT AMOUNT PER RESI-
 13 DENT.—

14 “(A) IN GENERAL.—The payment amount,
 15 for a hospital cost reporting period beginning on
 16 or after October 1, 1985, is equal to the product
 17 of—

18 “(i) the aggregate approved amount (as
 19 defined in subparagraph (B)) for that period,
 20 and

21 “(ii) the hospital’s medicaid patient load
 22 (as defined in subparagraph (C)) for that
 23 period.

24 “(B) AGGREGATE APPROVED AMOUNT.—As
 25 used in subparagraph (A), the term ‘aggregate ap-

1 proved amount' means, for a hospital cost report-
2 ing period, the sum of the products, for each resi-
3 dency year occurring during the cost reporting
4 period, of—

5 “(i) the fraction of that residency year
6 that occurs during the period,

7 “(ii) the hospital's approved FTE resi-
8 dent amount (determined under paragraph
9 (2)) for that residency year, and

10 “(iii) the number of full-time-equivalent
11 residents (as determined under paragraph (4))
12 in the hospital's approved medical residency
13 training programs in that year.

14 “(C) MEDICAID PATIENT LOAD.—As used in
15 subparagraph (A), the term ‘medicaid patient load’
16 means, with respect to a hospital's cost reporting
17 period, the fraction of the total number of inpa-
18 tient-bed-days (as established by the Secretary)
19 during the reporting period which are attributable
20 to patients with respect to whom payment may be
21 made under the State plan approved under this
22 part.

23 “(4) DETERMINATION OF FULL-TIME-EQUIVA-
24 LENT RESIDENTS.—

1 “(A) RULES.—The Secretary shall establish
2 rules consistent with this paragraph for the com-
3 putation of the number of full-time-equivalent resi-
4 dents in an approved medical residency training
5 program.

6 “(B) COUNTING TIME SPENT IN OUTPA-
7 TIENT SETTINGS.—Such rules shall provide that
8 only time spent in activities relating to patient
9 care shall be counted and that time so spent by a
10 resident under an approved medical residency
11 training program in an outpatient clinic, facility of
12 a health maintenance organization, or other am-
13 bulatory setting shall be counted towards the de-
14 termination of full-time equivalency.

15 “(C) ADJUSTMENT FOR PART-YEAR OR
16 PART-TIME RESIDENTS.—Such rules shall take
17 into account individuals who serve as residents for
18 only a portion of a residency year with a hospital
19 or simultaneously with more than one hospital.

20 “(D) WEIGHTING FACTORS FOR PRIMARY
21 CARE AND OTHER SPECIALTIES.—Subject to
22 subparagraphs (E) and (F), such rules shall pro-
23 vide, in calculating the number of full-time-equiv-
24 alent residents in approved residency program for
25 residency years beginning on or after July 1,

1 1987, for the application of a weighting factor for
 2 residents determined in accordance with the fol-
 3 lowing table:

"For the residency year beginning in—	The weighting factor for each—		
	(i) primary care resident is—	(ii) other resident—	
		(I) during the initial residency period is—	(II) during any other period is—
1987	1.10	.90	.75
1988	1.20	.80	.50
1989 or later	1.30	.70	.50

4 “(E) ALTERNATIVE COMPUTATIONS OF
 5 FULL-TIME EQUIVALENTS.—For residency years
 6 beginning on or after July 1, 1989, the Secretary
 7 may change the weighting factors described in the
 8 table in subparagraph (D) or may establish alter-
 9 native methods for calculating the number of full-
 10 time equivalent residents, based on recommenda-
 11 tions of the Physician Payment Review Commis-
 12 sion (established under section 1845).

13 “(F) SPECIAL RULES FOR FOREIGN MEDI-
 14 CAL GRADUATES.—

15 “(i) REQUIRED TO PASS FMGEMS EX-
 16 AMINATION.—Except as provided in clause
 17 (ii), such rules shall provide that, in the case
 18 of an individual who is a foreign medical
 19 graduate (as defined in paragraph (5)(D)), the

1 individual shall not be counted as a resident
2 for a residency year beginning on or after
3 July 1, 1986, unless the individual has
4 passed the FMGEMS examination (as de-
5 fined in paragraph (5)(E)) before the begin-
6 ning of the residency year.

7 “(ii) TRANSITION FOR CURRENT
8 FMGS.—For the residency year beginning on
9 July 1, 1986, in the case of a foreign medi-
10 cal graduate who—

11 “(I) has served as a resident before
12 that year and is serving as a resident
13 during that year, but

14 “(II) has not passed the FMGEMS
15 examination before July 1, 1986,
16 the individual shall be counted as a resident
17 at a rate equal to one-half of the rate at
18 which the individual would otherwise be
19 counted.

20 “(iii) TREATMENT OF CERTAIN ECFMG-
21 CERTIFIED INDIVIDUALS.—For purposes of
22 this subparagraph, the Secretary may pro-
23 vide for an individual to be treated as having
24 passed the FMGEMS examination if the in-
25 dividual is unable to take that examination

1 because the individual has previously re-
2 ceived certification from the Educational
3 Commission for Foreign Medical Graduates.

4 “(5) DEFINITIONS.—As used in this subsection:

5 “(A) APPROVED MEDICAL RESIDENCY
6 TRAINING PROGRAM.—The term ‘approved medi-
7 cal residency training program’ means a residency
8 or other postgraduate medical training program
9 participation in which may be counted toward cer-
10 tification in a specialty or subspecialty and in-
11 cludes formal postgraduate training programs in
12 geriatric medicine approved by the Secretary.

13 “(B) CONSUMER PRICE INDEX.—As used in
14 this paragraph, the term ‘consumer price index’
15 refers to the Consumer Price Index for All Urban
16 Consumers (United States city average), as pub-
17 lished by the Secretary of Commerce.

18 “(C) DIRECT MEDICAL EDUCATION
19 COSTS.—The term ‘direct medical education
20 costs’ means direct costs of approved educational
21 activities for approved medical residency training
22 programs.

23 “(D) FOREIGN MEDICAL GRADUATE.—The
24 term ‘foreign medical graduate’ means an individ-
25 ual who is a graduate of a medical school not ac-

1 credited by a body or bodies approved for this
2 purpose by the Secretary of Education (regardless
3 of whether the school of medicine is in the United
4 States).

5 “(E) FMGEMS EXAMINATION.—The term
6 ‘FMGEMS examination’ means parts I and II of
7 the Foreign Medical Graduate Examination in the
8 Medical Sciences recognized by the Secretary for
9 this purpose.

10 “(F) INITIAL RESIDENCY PERIOD.—The
11 term ‘initial residency period’ means, in the case
12 of a resident, the minimum number of years of
13 formal training necessary to satisfy the require-
14 ments (as specified in the 1985–1986 Directory of
15 Residency Training Programs published by the
16 Accreditation Council on Graduate Medical Edu-
17 cation) for initial board eligibility in the particular
18 specialty for which the resident is training; except
19 that—

20 “(i) except as provided in clause (ii), in
21 no case shall the initial period of residency
22 exceed an aggregate period of residency of
23 more than five years for any individual, and

24 “(ii) a period, of not more than two
25 years, during which an individual is a resi-

1 dent in the field of geriatric medicine or the
2 field of public health and preventive health
3 shall not be counted towards the initial resi-
4 dency period.

5 “(G) PRIMARY CARE RESIDENT.—The term
6 ‘primary care resident’ means an individual during
7 the individual’s first three years of postgraduate
8 medical training in the field of internal medicine,
9 pediatrics, or family medicine, but does not in-
10 clude such an individual who—

11 “(i) has been accepted for postgraduate
12 medical training in a field other than internal
13 medicine, pediatrics, family medicine, geriat-
14 ric medicine, or public health and preventive
15 medicine, and

16 “(ii) is receiving such training as part of
17 the initial training for that field.

18 Such term also includes an individual during up to
19 two years of postgraduate medical training in the
20 field of geriatric medicine or the field of public
21 health and preventive medicine.

22 “(H) RESIDENCY YEAR.—The term ‘residen-
23 cy year’ means a 12-month period beginning on
24 July 1.

1 “(I) RESIDENT.—The term ‘resident’ in-
2 cludes an intern or other participant in an ap-
3 proved medical residency training program.”.

4 (c) EFFECTIVE DATE.—The amendments made by this
5 section shall apply to payments made on or after July 1,
6 1986, under State plans approved under title XIX of the
7 Social Security Act; except that such amendments shall not
8 apply to such payments for costs incurred (or services ren-
9 dered) before that date.

10 (d) REPORT ON UNIFORMITY OF APPROVED FTE
11 RESIDENT AMOUNTS.—The Secretary of Health and
12 Human Services shall report to Congress, not later than De-
13 cember 31, 1986, on whether section 1902(h) of the Social
14 Security Act should be revised to provide for greater uni-
15 formity in the approved FTE resident amounts established
16 under paragraph (2) of that section, and, if so, how such revi-
17 sions should be implemented.

18 SEC. 165. TREATMENT OF POTENTIAL PAYMENTS FROM MED-
19 ICAID QUALIFYING TRUSTS.

20 (a) AMOUNTS TREATED AS BEING AVAILABLE FROM
21 GRANTOR TRUSTS.—Section 1902 of the Social Security
22 Act (42 U.S.C. 1396a) is amended by adding at the end the
23 following new subsection:

24 “(k)(1) In the case of a medicaid qualifying trust (de-
25 scribed in paragraph (2)), the amounts from the trust deemed

1 available to a grantor, for purposes of subsection (a)(17), is
2 the maximum amount of payments that may be permitted
3 under the terms of the trust to be distributed to the grantor,
4 assuming the full exercise of discretion by the trustee or
5 trustees for the distribution of the maximum amount to the
6 grantor. For purposes of the previous sentence, the term
7 'grantor' means the individual referred to in paragraph (2).

8 “(2) For purposes of this subsection, a ‘medicaid qualify-
9 ing trust’ is a trust, or similar legal device, established by an
10 individual (or an individual’s spouse) under which the individ-
11 ual may be the beneficiary of all or part of the payments from
12 the trust and the distribution of such payments is determined
13 by one or more trustees who are permitted to exercise any
14 discretion with respect to the distribution to the individual.

15 “(3) This subsection shall apply without regard to—

16 “(A) whether or not the medicaid qualifying trust
17 is irrevocable or is established for purposes other than
18 to enable a grantor to qualify for medical assistance
19 under this title, or

20 “(B) whether or not the discretion described in
21 paragraph (2) is actually exercised.”.

22 (b) **EFFECTIVE DATE.**—The amendment made by sub-
23 section (a) shall apply to medical assistance furnished on or
24 after the first day of the second month beginning after the
25 date of the enactment of this Act.

1 SEC. 166. WRITTEN STANDARDS FOR PROVISION OF ORGAN
2 TRANSPLANTS.

3 (a) DENIAL OF FEDERAL PAYMENTS FOR ORGAN
4 TRANSPLANTS UNLESS PROVIDED UNDER WRITTEN
5 STANDARDS.—Section 1903(i) of the Social Security Act (42
6 U.S.C. 1396b(i)) is amended by inserting before paragraph
7 (2) the following new paragraph:

8 “(1) for organ transplant procedures unless the
9 State plan provides for written standards respecting
10 the coverage of such procedures and unless such stand-
11 ards provide that—

12 “(A) similarly situated individuals are treated
13 alike, and

14 “(B) any restriction, on the facilities or prac-
15 titioners which may provide such procedures, is
16 consistent with the accessibility of high quality
17 care to individuals eligible for the procedures
18 under the State plan.”.

19 (b) EFFECTIVE DATE.—The amendments made by sub-
20 section (a) shall apply to medical assistance furnished on or
21 after July 1, 1986.

22 SEC. 167. DEEMED RESIDENCE FOR OUT-OF-STATE ADOPTIVE
23 AND FOSTER CARE PLACEMENTS.

24 (a) GENERAL RULE.—Section 1902(b) of the Social Se-
25 curity Act (42 U.S.C. 1396a(b)) is amended by adding at the
26 end the following:

1 “For purposes of this title, any individual receiving aid or
2 assistance under any plan of a State approved under part E
3 of title IV shall be deemed to be receiving such aid or assist-
4 ance from the State in which the individual actually
5 resides.”.

6 (b) **EFFECTIVE DATE.**—The amendment made by sub-
7 section (a) shall apply to medical assistance furnished on or
8 after the first calendar quarter that begins more than 90 days
9 after the date of the enactment of this Act.

10 **SEC. 168. EXTENSION OF MMIS DEADLINE.**

11 (a) **NEW DEADLINE.**—Section 1903(r)(1)(B) of the
12 Social Security Act (42 U.S.C. 1396b(r)(1)(B)) is amended by
13 striking out “the earlier of” and all that follows through the
14 end of subparagraph (B) and inserting in lieu thereof “Sep-
15 tember 30, 1985.”.

16 (b) **EFFECTIVE DATE.**—The amendment made by sub-
17 section (a) shall apply to payment under section 1903(a) of
18 the Social Security Act for calendar quarters beginning on or
19 after October 1, 1982.

20 **SEC. 169. EXTENSION OF CERTAIN WAIVER PROJECT.**

21 (a) **CONTINUED APPROVAL.**—Notwithstanding any lim-
22 itations contained in section 1115 of the Social Security Act
23 but subject to subsection (b) of this section, the Secretary of
24 Health and Human Services, upon application, shall continue
25 approval of demonstration project number 11-P-97473/6—

1 06 ("Modifications under the Texas System of Care for the
2 Elderly: Alternatives to the Institutionalized Aged"), previ-
3 ously approved under that section, until December 31, 1988.

4 (b) TERMS AND CONDITIONS.—The Secretary's contin-
5 ued approval of the project under subsection (a)—

6 (1) shall be on the same terms and conditions as
7 applied to the project as of the date of the enactment
8 of this Act, and

9 (2) shall remain in effect until such time as the
10 Secretary finds that the applicant no longer complies
11 with such terms and conditions.

12 **SEC. 170. REPORT ON ADJUSTMENT IN MEDICAID PAYMENTS**
13 **FOR HOSPITALS SERVING DISPROPORTIONATE**
14 **NUMBERS OF LOW INCOME PATIENTS.**

15 The Secretary of Health and Human shall transmit to
16 Congress, not later than July 1, 1986, a report that—

17 (1) describes the methodology used by States
18 under section 1902(a)(13)(A) of the Social Security
19 Act, in their making payments to hospitals, in taking
20 into account the situation of hospitals that serve a dis-
21 proportionate number of low income patients with spe-
22 cial needs,

23 (2) identifies each of those hospitals that have had
24 the amount of their payments under that title adjusted
25 under that section, and

(3) for each of those hospitals, describes the proportion of total inpatient-days attributable to low income patients and the proportion of total inpatient-days attributable to patients entitled to medical assistance under that title.

6 SEC. 171. REFERENCE TO PROVISIONS OF LAW PROVIDING
7 COVERAGE UNDER, OR DIRECTLY AFFECTING,
8 THE MEDICAID PROGRAM.

9 Title XIX of the Social Security Act is amended by
10 adding at the end the following new section:

11 “REFERENCES TO LAWS DIRECTLY AFFECTING MEDICAID
12 PROGRAM

13 “SEC. 1919. (a) AUTHORITY OR REQUIREMENTS TO
14 COVER ADDITIONAL INDIVIDUALS.—For provisions of law
15 that make additional individuals eligible for medical assist-
16 ance under this title, see the following:

17 “(1) AFDC.—(A) Section 402(a)(37) of this Act
18 (relating to individuals who lose AFDC eligibility due
19 to increased earnings).

20 “(B) Section 406(h) of this Act (relating to indi-
21 viduals who lose AFDC eligibility due to increased col-
22 lection of child or spousal support).

23 “(C) Section 414(g) of this Act (relating to certain
24 individuals participating in work supplementation
25 programs).

1 “(2) **SSI.**—Section 1619 of this Act (relating to
2 benefits for individuals who perform substantial gainful
3 activity despite severe medical impairment).

4 “(3) **REFUGEE ASSISTANCE.**—Section 412(e)(5)
5 of the Immigration and Nationality Act (relating to
6 medical assistance for certain refugees).

7 “(4) **MISCELLANEOUS.**—(A) Section 230 of
8 Public Law 93-66 (relating to deeming eligible for
9 medical assistance certain essential persons).

10 “(B) Section 231 of Public Law 93-66 (relating
11 to deeming eligible for medical assistance certain per-
12 sons in medical institutions).

13 “(C) Section 232 of Public Law 93-66 (relating
14 to deeming eligible for medical assistance certain blind
15 and disabled medically indigent persons).

16 “(D) Section 13(c) of Public Law 93-233 (relat-
17 ing to deeming eligible for medical assistance certain
18 individuals receiving mandatory State supplementary
19 payments).

20 “(E) Section 503 of Public Law 94-566 (popular-
21 ly known as the ‘Pickle Amendment’, relating to deem-
22 ing eligible for medical assistance certain individuals
23 who would be eligible for supplemental security income
24 benefits but for cost-of-living increases in social securi-
25 ty benefits).

1 “(b) ADDITIONAL STATE PLAN REQUIREMENTS.—For
 2 other provisions of law that establish additional requirements
 3 for State plans to be approved under this title, see the follow-
 4 ing:

5 “(1) Section 1618 of this Act (relating to require-
 6 ment for operation of certain State supplementation
 7 programs).

8 “(2) Section 212(a) of Public Law 93-66 (relating
 9 to requiring mandatory minimum State supplementa-
 10 tion of SSI benefits program).”.

11 **PART F—PRIVATE HEALTH INSURANCE**

12 **CONTINUATION**

13 **SEC. 181. TEMPORARY EXTENSION OF COVERAGE AT GROUP** 14 **RATES FOR FAMILY MEMBERS OF DECEASED,** 15 **DIVORCED, OR MEDICARE-ELIGIBLE WORKERS.**

16 (a) IN GENERAL.—Subsection (i) of section 162 of the
 17 Internal Revenue Code of 1954 (relating to deduction for
 18 trade or business expenses with respect to group health
 19 plans) is amended—

20 (1) by redesignating paragraph (2) as paragraph
 21 (3); and

22 (2) by inserting after paragraph (1) the following
 23 new paragraph:

24 “(2) CONTINUATION COVERAGE.—

1 “(A) REQUIRING OPTION OF CONTINUATION
2 COVERAGE WHEN QUALIFIED BENEFICIARY
3 WOULD LOSE COVERAGE.—The expenses paid or
4 incurred by an employer for a group health plan
5 shall not be allowed as a deduction under this sec-
6 tion unless each qualified beneficiary who would
7 lose coverage under the plan because of a qualify-
8 ing event is given, in accordance with this para-
9 graph, the option of electing continuation cover-
10 age under the plan.

11 “(B) ELECTION.—

12 “(i) ELECTION PERIOD.—The option of
13 electing continuation coverage must be of-
14 fered during a period that—

15 “(I) begins not later than the ter-
16 mination date (as defined in subpara-
17 graph (C)(ii)),

18 “(II) is of at least 60 days dura-
19 tion, and

20 “(III) ends not earlier than 60
21 days after the date the qualified benefi-
22 ciary is notified under subparagraph
23 (F)(iv) or the termination date, whichev-
24 er date is later.

1 “(ii) EFFECT OF ELECTION ON OTHER
2 BENEFICIARIES.—Unless otherwise specified
3 in the election, any such election by a quali-
4 fied beneficiary described in subparagraph
5 (G)(ii)(I) shall be deemed to include an elec-
6 tion of continuation coverage on behalf of
7 any other qualified beneficiary whose cover-
8 age would, but for continuation coverage
9 provided in accordance with this paragraph,
10 be affected by the qualifying event.

11 “(C) QUALIFYING EVENT AND TERMINA-
12 TION DATE.—For purposes of this paragraph—

13 “(i) A ‘qualifying event’ under a group
14 health plan, with respect to a covered em-
15 ployee, is any of the following events if cov-
16 erage of a qualified beneficiary under the
17 plan would, but for continuation coverage
18 provided in compliance with this paragraph,
19 be terminated by the occurrence of the
20 event:

21 “(I) The death of the covered
22 employee.

23 “(II) The divorce or separation of
24 the covered employee from the employ-
25 ee’s spouse.

1 “(III) The covered employee be-
2 coming entitled to benefits under title
3 XVIII of the Social Security Act.

4 “(ii) The term ‘termination date’ means,
5 with respect to a qualifying event, the date
6 on which coverage of a qualified beneficiary
7 under a group health plan would be termi-
8 nated under the plan but for continuation
9 coverage provided in compliance with this
10 paragraph.

11 “(D) TERMS OF CONTINUATION COVER-
12 AGE.—Any continuation coverage elected by or
13 on behalf of a qualified beneficiary shall meet the
14 following requirements:

15 “(i) NO REQUIREMENT OF INSURABIL-
16 ITY.—The coverage may not be conditioned
17 upon, or discriminate on the basis of lack of,
18 evidence of insurability.

19 “(ii) CONTINUED BENEFITS.—The cov-
20 erage shall consist of coverage which is iden-
21 tical to the coverage provided under the plan
22 to similarly situated beneficiaries under the
23 plan with respect to whom a qualifying event
24 has not occurred.

1 “(iii) PERIOD OF CONTINUED COVER-
2 AGE.—The coverage shall be for a period
3 commencing upon the termination date and
4 ending not earlier than the earliest of the
5 following:

6 “(I) MAXIMUM OF FIVE YEARS.—
7 Five years after the termination date.

8 “(II) END OF PLAN.—The date on
9 which the employer ceases to provide
10 any group health plan to employees.

11 “(III) FAILURE TO PAY PREMI-
12 UMS.—The date on which there is a
13 failure in making timely payment of any
14 premium required under the plan with
15 respect to the qualified beneficiary.

16 “(IV) REEMPLOYMENT OR MEDI-
17 CARE ELIGIBILITY.—The date on
18 which the qualified beneficiary first be-
19 comes or could become, after the date
20 of the election, a covered employee
21 under any other group health plan or
22 becomes entitled to benefits under title
23 XVIII of the Social Security Act.

24 “(V) REMARRIAGE OF SPOUSE.—
25 In the case of a qualified beneficiary de-

1 scribed in subparagraph (G)(ii)(I), the
2 date on which the beneficiary remarries
3 and becomes (or could become) covered
4 under a group health plan as the spouse
5 of a covered employee.

6 “(VI) CHILD TURNING MAJORI-
7 TY.—In the case of an individual who is
8 a qualified beneficiary by reason of
9 having been a covered dependent child
10 of a covered employee, the date on
11 which the individual ceases to be a cov-
12 ered dependent child of the covered
13 employee.

14 “(iv) CONVERSION OPTION.—In the
15 case of a qualified beneficiary whose period
16 of continued coverage expires under clause
17 (iii)(I), the plan must provide to the benefi-
18 ciary, during the 180-day period ending on the
19 date of expiration of the period of continued
20 coverage, the option of enrollment under a
21 conversion health plan otherwise generally
22 available to beneficiaries under the plan.

23 “(E) PREMIUMS FOR CONTINUATION COV-
24 ERAGE.—

1 “(i) AMOUNT.—The total premium
2 charged by a group health plan with respect
3 to any qualified beneficiary for continuation
4 coverage under the plan shall not exceed the
5 sum of employer premiums and employee
6 premiums generally charged with respect to
7 coverage under the plan of similarly situated
8 beneficiaries with respect to whom a qualify-
9 ing event has not occurred. The total of all
10 premiums charged by the plan in any plan
11 year may be based upon reasonably antici-
12 pated community costs for such plan year of
13 the entire pool of covered employees and
14 other beneficiaries under the plan, including
15 qualified beneficiaries receiving continuation
16 coverage under the plan under this para-
17 graph.

18 “(ii) PAYMENTS.—The plan may pro-
19 vide for payment of the total premium by the
20 qualified beneficiary receiving such coverage,
21 or for payment of all or part of such premi-
22 um by the employer or other party and pay-
23 ment of the remainder of such premium by
24 such beneficiary. The plan shall provide for
25 payment of any premium by a qualified bene-

1 ficiary in monthly installments if so elected
2 by the beneficiary. If an election is made
3 during an election period but after the termi-
4 nation date, the plan shall permit payment of
5 any premium for continuation coverage
6 during the preceding period to be made
7 within 45 days of the date of the election.

8 “(iii) PREMIUM DEFINED.—As used in
9 this subparagraph, the term ‘premium’ means
10 any amount payable with respect to the pro-
11 vision of coverage under a group health plan.

12 “(F) NOTICE REQUIREMENTS.—In accord-
13 ance with regulations of the Secretary—

14 “(i) the group health plan must provide,
15 at the time of commencement of coverage
16 under the plan, for written notice to each
17 covered employee and spouse of the employ-
18 ee (if any) of the rights provided under this
19 paragraph;

20 “(ii) the employer of a employee under
21 the plan must notify the group health plan
22 administrator if the employee dies;

23 “(iii) each covered employee is responsi-
24 ble for notifying the group health plan ad-
25 ministrator of the occurrence of any qualify-

1 ing event (other than that described in sub-
2 paragraph (C)(i)(I)) respecting that employee;
3 and

4 “(iv) the group health plan administra-
5 tor must notify each qualified beneficiary,
6 within a period of 14 days after the date the
7 administrator is notified concerning the oc-
8 currence of a qualifying event affecting that
9 beneficiary, of—

10 “(I) the termination date with re-
11 spect to the beneficiary, and

12 “(II) the beneficiary’s right to elect
13 continuation coverage under this para-
14 graph and the election period estab-
15 lished under subparagraph (B)(i) during
16 which the beneficiary can exercise that
17 right.

18 “(G) DEFINITIONS.—For purposes of this
19 paragraph—

20 “(i) COVERED EMPLOYEE.—The term
21 ‘covered employee’ means an individual who
22 is (or was) provided coverage under a group
23 health plan by virtue of the individual’s em-
24 ployment or previous employment with an
25 employer.

1 “(ii) QUALIFIED BENEFICIARY.—The
2 term ‘qualified beneficiary’ means, with re-
3 spect to a covered employee under a group
4 health plan, any other individual who, on the
5 date before the date of a qualifying event for
6 that employee—

7 “(I) is a beneficiary under the plan
8 as the spouse of the employee and has
9 been married to the employee for at
10 least the immediately preceding 30-day
11 period, or

12 “(II) is a beneficiary under the
13 plan as a covered dependent child of the
14 employee.

15 “(iii) COVERED DEPENDENT CHILD.—
16 The term ‘covered dependent child’ means,
17 with respect to a covered employee, an indi-
18 vidual who meets the generally applicable re-
19 quirements of the plan for treatment as a de-
20 pendent child covered under the plan by
21 reason of the coverage of the employee
22 under the plan.

23 “(iv) GROUP HEALTH PLAN ADMINIS-
24 TRATOR.—The term ‘group health plan ad-
25 ministrator’ means, in connection with a

1 group health plan, any person who provides
2 for administrative functions relating to enroll-
3 ment of individuals under the plan. For pur-
4 poses of this subparagraph, the term 'person'
5 includes one or more individuals, govern-
6 ments or agencies of the United States or
7 any State or political subdivision thereof,
8 labor unions, partnerships, associations, cor-
9 porations, legal representatives, mutual com-
10 panies, joint ventures, joint stock companies,
11 societies, trusts, unincorporated organiza-
12 tions, trustees, trustees in bankruptcy, re-
13 ceivers, and fiduciaries."

14 (b) CONFORMING AMENDMENT.—Paragraph (1) of sec-
15 tion 162(i) of such Code is amended by striking out "GENER-
16 AL RULE" and inserting in lieu thereof "COVERAGE RELAT-
17 ING TO END STAGE RENAL DISEASE".

18 (c) EFFECTIVE DATES.—

19 (1) GENERAL RULE.—The amendments made by
20 this section shall apply to plan years beginning on or
21 after January 1, 1986.

22 (2) SPECIAL RULE FOR COLLECTIVE BARGAINING
23 AGREEMENTS.—In the case of a group health plan
24 maintained pursuant to one or more collective bargain-
25 ing agreements between employee representatives and

1 one or more employers ratified before the date of the
2 enactment of this Act, the amendments made by this
3 section shall not apply to plan years beginning before
4 the earlier of—

5 (A) the date on which the last of the collec-
6 tive bargaining agreements relating to the plan
7 terminates (determined without regard to any ex-
8 tension thereof agreed to after the date of the en-
9 actment of this Act), or

10 (B) January 1, 1987.

11 For purposes of subparagraph (A), any plan amend-
12 ment made pursuant to a collective bargaining agree-
13 ment relating to the plan which amends the plan solely
14 to conform to any requirement added by this section
15 shall not be treated as a termination of such collective
16 bargaining agreement.

17 (d) NOTIFICATION TO COVERED EMPLOYEES.—At the
18 time that the amendments made by this section apply to a
19 group health plan described in section 162(i) of the Internal
20 Revenue Code of 1954, the plan shall notify each covered
21 employee, and spouse of the employee (if any), who is cov-
22 ered under the plan at that time of the continuation coverage
23 required under paragraph (2) of that section. The notice fur-
24 nished under this subsection is in lieu of notice that may oth-
25 erwise be required under paragraph (2)(F)(i) of that section.

1 **PART G—TASK FORCE ON LONG-TERM HEALTH**
2 **CARE POLICIES**

3 **SEC. 191. GUIDELINES FOR LONG-TERM HEALTH CARE POLI-**
4 **CIES.**

5 (a) **ESTABLISHMENT OF TASK FORCE.**—(1) The Secre-
6 tary of Health and Human Services (hereinafter in this sec-
7 tion referred to as the “Secretary”) shall establish a Task
8 Force on Long-Term Health Care Policies (hereinafter in this
9 section referred to as the “Task Force”). The Task Force
10 shall be established not later than 60 days after the date of
11 the enactment of this Act and in consultation with the Na-
12 tional Association of Insurance Commissioners.

13 (b) **COMPOSITION OF TASK FORCE.**—The Task Force
14 shall be composed of 18 members, which shall include—

15 (1) two members representing the National Asso-
16 ciation of Insurance Commissioners,

17 (2) three members representing Federal and State
18 agencies with responsibilities relating to health or the
19 elderly,

20 (3) three members representing private insurers,

21 (4) three members from organizations representing
22 consumers or the elderly, and

23 (5) three members from organizations representing
24 providers of long-term health care services.

25 The Secretary shall designate a member of the Task Force as
26 chair.

1 (c) DEVELOPMENT OF GUIDELINES.—The Task Force
2 shall develop guidelines for long-term health care policies,
3 including guidelines designed—

4 (1) to limit marketing and agent abuse for those
5 policies,

6 (2) to assure the dissemination of such information
7 to consumers as is necessary to permit informed choice
8 in purchasing the policies and to reduce the purchase
9 of unnecessary or duplicative coverage,

10 (3) to assure that benefits provided under the poli-
11 cies are reasonable in relationship to premiums
12 charged, and

13 (4) to promote the development and availability of
14 long-term health care policies which meet these guide-
15 lines.

16 (d) REPORT.—Not later than 18 months after the date
17 of the enactment of this Act, the Task Force shall report to
18 the Secretary and Congress respecting—

19 (1) the guidelines developed under subsection (c),
20 including an explanation of the reasons for their selec-
21 tion, and

22 (2) such recommendations for additional activities
23 respecting long-term health care policies as the Task
24 Force finds appropriate.

1 The Secretary, in cooperation with the National Association
2 of Insurance Commissioners, shall provide for the dissemina-
3 tion of the report to each of the States.

4 (e) ANNUAL REPORT OF SECRETARY.—The Secretary
5 shall annually report to Congress on—

6 (1) actions taken by the States to implement the
7 guidelines developed under this section,

8 (2) recommendations for the development of addi-
9 tional guidelines (or modification of proposed guide-
10 lines), and

11 (3) recommendations for legislative and adminis-
12 trative action needed to respond to issues raised by the
13 Task Force or to improve consumer protection with re-
14 spect to long-term health care policies.

15 (f) LONG-TERM HEALTH CARE POLICY DEFINED.—In
16 this section, the term “long-term health care policy” means
17 an insurance policy, or similar health benefits plan, which is
18 designed for or marketed as providing (or making payments
19 for) health care services (such as nursing home care and
20 home health care) or related services (which may include
21 home and community-based services), or both, over an ex-
22 tended period of time.

1 **TITLE II—TRADE AND CUSTOMS**

2 **LAWS AMENDMENTS**

PART A—TRADE ADJUSTMENT ASSISTANCE

SUBPART 1—WORKER ADJUSTMENT ASSISTANCE

- Sec. 201. Group eligibility requirements.
- Sec. 202. Qualifying requirements.
- Sec. 203. Limitations on trade readjustment allowances.
- Sec. 204. Worker training.
- Sec. 205. Agreements with States regarding training.

SUBPART 2—FIRM ADJUSTMENT ASSISTANCE

- Sec. 211. Petitions.
- Sec. 212. Approval of adjustment proposals.
- Sec. 213. Technical assistance.
- Sec. 214. Financial assistance.
- Sec. 215. Protective provisions.

SUBPART 3—EXTENSION OF TRADE ADJUSTMENT ASSISTANCE

- Sec. 221. Extension of adjustment assistance for workers and firms.

SUBPART 4—EFFECTIVE DATES

- Sec. 231. Effective dates.

PART B—AUTHORIZATION OF APPROPRIATIONS FOR TRADE AND CUSTOMS AGENCIES

- Sec. 241. United States International Trade Commission.
- Sec. 242. United States Customs Service.
- Sec. 243. United States Trade Representative.

PART C—USER FEES FOR CUSTOMS SERVICES

- Sec. 251. Fees to offset expenses incurred in processing arrivals in the United States.
- Sec. 252. Conforming amendments.
- Sec. 253. Advisory committee.
- Sec. 254. Effective period for fees.

3 **PART A—TRADE ADJUSTMENT ASSISTANCE**

4 **Subpart 1—Worker Adjustment Assistance**

5 **SEC. 201. GROUP ELIGIBILITY REQUIREMENTS.**

6 Section 222 of the Trade Act of 1974 (19 U.S.C. 2272)

7 is amended to read as follows:

1 "SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

2 "The Secretary shall certify a group of workers as eligi-
3 ble to apply for adjustment assistance under this part if he
4 determines—

5 "(1) that—

6 "(A) a significant number or proportion of
7 the workers in such workers' firm or an appropri-
8 ate subdivision of the firm have become totally or
9 partially separated, or are threatened to become
10 totally or partially separated,

11 "(B) sales or production, or both, of such
12 firm or subdivision have decreased absolutely, and

13 "(C) increases of imports of articles like or
14 directly competitive with articles produced by
15 such workers' firm or an appropriate subdivision
16 thereof contributed importantly to such total or
17 partial separation, or threat thereof, and to such
18 decline in sales or production; or

19 "(2) that a significant number or proportion of the
20 workers in such workers' firm (if the firm has no subdi-
21 vision) or subdivision of a firm have become totally or
22 partially separated, or are threatened to become totally
23 or partially separated, by reason of the relocation of
24 the production functions of that firm or subdivision to a
25 foreign country or instrumentality.

1 For purposes of paragraph (1)(C), the term ‘contributed im-
2 portantly’ means a cause which is important but not neces-
3 sarily more important than any other cause.”.

4 **SEC. 202. QUALIFYING REQUIREMENTS.**

5 The last sentence of section 231(a)(2) of the Trade Act
6 of 1974 (19 U.S.C. 2291(a)(2)) is amended by striking out all
7 that follows after subparagraph (C) and inserting in lieu
8 thereof “shall be treated as a week of employment at wages
9 of \$30 or more, but not more than 7 weeks, in case of weeks
10 described in paragraph (A) or (C), or both, may be treated as
11 weeks of employment under this sentence.”.

12 **SEC. 203. LIMITATIONS ON TRADE READJUSTMENT ALLOW-**
13 **ANCES.**

14 Section 233(a)(2) of the Trade Act of 1974 (19 U.S.C.
15 2293(a)(2)) is amended by striking out “52-week period” and
16 inserting “104-week period”.

17 **SEC. 204. WORKER TRAINING.**

18 Section 236(a)(1) of the Trade Act of 1974 (19 U.S.C.
19 2296(a)(1)) is amended by adding at the end thereof the fol-
20 lowing new sentence: “For purposes of applying subpara-
21 graph (C), a reasonable expectation of employment does not
22 require that employment opportunities for a worker be avail-
23 able, or offered, immediately upon the completion of training
24 under this section.”.

1 SEC. 205. AGREEMENTS WITH STATES REGARDING TRAINING.

2 Section 239(a) of the Trade Act of 1974 (19 U.S.C.
3 2311(a)) is amended—

4 (1) by inserting “(1)” immediately after “(a)”;

5 (2) by redesignating paragraphs (1), (2), and (3) as
6 subparagraphs (A), (B), and (C), respectively;

7 (3) by amending subparagraph (B) (as so redesign-
8 nated) to read as follows: “(B) where appropriate, but
9 in accordance with paragraph (2), will afford adversely
10 affected workers testing, counseling, referred to train-
11 ing, and placement services, and”; and

12 (4) by adding at the end thereof the following new
13 paragraph:

14 “(2) Each cooperating State agency must, in carrying
15 out paragraph (1)(B)—

16 “(A) advise each adversely affected worker to
17 apply for training under section 236(a) at the time the
18 worker makes application for trade readjustment allow-
19 ances (but failure of the worker to do so may not be
20 treated as cause for denial of those allowances); and

21 “(B) within 60 days after application for training
22 is made by the worker, interview the adversely affected
23 worker regarding, and review, suitable training oppor-
24 tunities available to the worker under section 236.”.

Subpart 2—Firm Adjustment Assistance

SEC. 211. PETITIONS.

Section 251(c)(2) of the Trade Act of 1974 (19 U.S.C. 2341(c)(2)) is amended to read as follows:

“(2) sales or production, or both—

“(A) of the firm have decreased absolutely,
or

“(B) of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and”.

SEC. 212. APPROVAL OF ADJUSTMENT PROPOSALS.

Section 252 of the Trade Act of 1974 (19 U.S.C. 2342) is amended—

(1) by amending the second sentence of subsection (b)(1) by striking out “adjustment assistance” and inserting in lieu thereof “technical assistance under section 253(a)(3) or financial assistance under section 254”; and

(2) by striking out subsection (c) and redesignating subsection (d) as subsection (c).

SEC. 213. TECHNICAL ASSISTANCE.

Section 253(b)(2) of the Trade Act of 1974 (19 U.S.C. 2343(b)(2)) is amended by inserting “to a certified firm in the

1 implementation of its adjustment proposal” immediately after
2 “furnished”.

3 **SEC. 214. FINANCIAL ASSISTANCE.**

4 Section 254(b) of the Trade Act of 1974 (19 U.S.C.
5 2344(b)) is amended by inserting “, either through a single
6 loan or a combination of loans,” immediately before “to the
7 firm—” in subsection (b).

8 **SEC. 215. PROTECTIVE PROVISIONS.**

9 Section 258(d) of the Trade Act of 1974 (19 U.S.C.
10 2348(d)) is amended by striking out “them and”.

11 **Subpart 3—Extension of Trade Adjustment Assistance**

12 **SEC. 221. EXTENSION OF ADJUSTMENT ASSISTANCE FOR**
13 **WORKERS AND FIRMS.**

14 Section 285 of the Trade Act of 1974 (19 U.S.C. note
15 preceding 2271) is amended by striking out “September 30,
16 1985” and inserting in lieu thereof “September 30, 1989”.

17 **Subpart 4—Effective Dates**

18 **SEC. 231. EFFECTIVE DATES.**

19 (a) **IN GENERAL.**—Except as provided in subsection (b),
20 the amendments made by this part shall take effect October
21 1, 1985.

22 (b) **SPECIAL PROVISIONS.**—(1) The amendments made
23 by sections 201, 202, and 211 shall apply with respect to all
24 petitions for certification filed after September 30, 1985,

1 under section 221 or 251, as the case may be, of the Trade
2 Act of 1974.

3 (2) The amendment made by section 204 shall apply
4 with respect to workers covered under certifications issued
5 under section 222 of such Act of 1974 after September 30,
6 1985.

7 **PART B—AUTHORIZATION OF APPROPRIATIONS**
8 **FOR TRADE AND CUSTOMS AGENCIES**

9 **SEC. 241. UNITED STATES INTERNATIONAL TRADE COMMIS-**
10 **SION.**

11 The first sentence of paragraph (2) of section 330(e) of
12 the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to
13 read as follows: "There are authorized to be appropriated to
14 the Commission for necessary expenses (including the rental
15 of conference rooms in the District of Columbia and else-
16 where) for fiscal year 1986 not to exceed \$28,901,000; of
17 which not to exceed \$2,500 may be used, subject to approval
18 by the Chairman of the Commission, for reception and enter-
19 tainment expenses."

20 **SEC. 242. UNITED STATES CUSTOMS SERVICE.**

21 (a) **AUTHORIZATION OF APPROPRIATIONS.**—Section
22 301 of the Customs Procedural Reform and Simplification
23 Act of 1978 (19 U.S.C. 2075) is amended as follows:

24 (1) Subsection (b) is amended to read as follows:

1 “(b)(1) There are authorized to be appropriated to the
2 Department of the Treasury not to exceed \$769,067,000 for
3 the salaries and expenses of the United States Customs Serv-
4 ice for fiscal year 1986; of which—

5 “(A) \$27,900,000 is for the addition of 500 in-
6 spectors, 150 import specialists, 100 customs patrol of-
7 ficers, and 50 special agents;

8 “(B) \$50,425,000 is for the operation and mainte-
9 nance of the air interdiction program of the Service;
10 and

11 “(C) not to exceed \$14,000,000 is for the imple-
12 mentation of the ‘Operation EXODUS’ program and
13 any related program designed to enforce or monitor
14 export controls under the Export Administration Act of
15 1979.

16 “(2) No part of any sum that is appropriated under the
17 authority of paragraph (1) may be used to close any port of
18 entry at which, during fiscal year 1985—

19 “(A) not less than 2,500 merchandise entries (in-
20 cluding informal entries) were made; and

21 “(B) not less than \$1,500,000 in customs reve-
22 nues were assessed.

23 “(3)(A) No part of any sum that is appropriated under
24 the authority of paragraph (1) may be used for further re-
25 search and development or acquisition of F-15 avionics for

1 the P-3 aircraft and related equipment until 60 days after
2 the Committee on Ways and Means and the Committee on
3 Finance have received from the Secretary of the Treasury a
4 written comparative assessment of the suitability of the P-3,
5 E-2, or other appropriate aircraft for use by the Customs
6 Service in its air drug interdiction program. Such assessment,
7 which the Secretary may not submit to the Committees until
8 the General Accounting Office study required under para-
9 graph (6) is completed, shall include life cycle costs.

10 “(B) Acquisition of additional aircraft for use by the
11 Customs Service for its air drug interdiction program after
12 completion of the assessment required under subparagraph
13 (A) shall be subject to competitive bidding through the use of
14 the normal ‘request for proposal’ process.

15 “(4) No part of any sum that is appropriated under the
16 authority of paragraph (1) may be used to consolidate the
17 drawback liquidation centers within the Customs Service to
18 less than 4 such centers. If a consolidation is undertaken, the
19 Commissioner of Customs shall select the location of the cen-
20 ters after taking into account the drawback volume at, and
21 the geographic dispersion of, the respective centers being
22 considered for consolidation.

23 “(5) In addition to any sum authorized to be appropri-
24 ated under paragraph (1), there are authorized to be appro-

1 priated to the Department of the Treasury for fiscal year
2 1986—

3 “(A) not to exceed \$8,000,000 from the Customs
4 Forfeiture Fund for the making of payments under sec-
5 tion 613A of the Tariff Act of 1930 (19 U.S.C.
6 1613b), of which not to exceed \$5,000,000 may be
7 used for the modification of aircraft (whether or not
8 aircraft described in subsection (a)(5) of that section)
9 for drug interdiction; and

10 “(B) from the Treasury account established under
11 section 236 of the Trade and Tariff Act of 1984 (19
12 U.S.C. 58b) such sums as may be necessary for the
13 provision of customs services at airports under that
14 section, but not to exceed \$75,000 for each such air-
15 port.; and

16 “(6) As soon as possible after the date of the enactment
17 of this paragraph, but not later than 12 months after that
18 date, the General Accounting Office shall complete, and
19 submit to the Committee on Ways and Means and the Com-
20 mittee on Finance, a study that evaluates the air detection
21 and interdiction capability of the Customs Service, including
22 assets, geographic dispersal, costs of operation, procurement
23 practices, and the services and equipment provided by other
24 Federal agencies. Within 6 months after commencing the

1 study, the General Accounting Office shall consult with the
2 Committees on the progress of the study.”; and

3 (2) by adding at the end thereof the following new
4 subsection:

5 “(f) USE OF SAVINGS RESULTING FROM ADMINISTRA-
6 TIVE CONSOLIDATIONS.—If savings in salaries and expenses
7 result from the consolidation of administrative functions
8 within the Customs Service, the Commissioner of Customs
9 shall apply those savings, to the extent they are not needed
10 to meet emergency requirements of the Service, to strength-
11 ening the commercial operations of the Service by increasing
12 the number of inspector, import specialist, patrol officer, and
13 other line operational positions.”.

14 (b) ELIMINATION OF SURETIES ON CUSTOMS
15 BONDS.—(1) The Commissioner of Customs may not publish,
16 nor take any other action to give force and effect to, any final
17 rule that would revise any provision in 19 CFR part 113 or
18 section 142.4 (as in effect on March 1, 1984) relating to the
19 requirement for sureties on customs bonds—

20 (A) unless the Commissioner submits to the Com-
21 mittee on Ways and Means of the House of Represent-
22 atives and the Committee on Finance of the Senate, on
23 the same day, a report containing—

24 (i) the text of the draft final rule;

1 (ii) an analysis of the revenue impact of the
2 rule;

3 (iii) a regulatory impact analysis;

4 (iv) the estimated cost benefit of the rule to
5 the Customs Service and to the importing commu-
6 nity, and an explanation in support of those esti-
7 mates; and

8 (v) a justification for each revision to be ef-
9 fected by the rule; and

10 (B) until the close of the first period of 90 calen-
11 dar days of continuous session of Congress occurring
12 after the date on which the report is submitted under
13 subparagraph (A).

14 **SEC. 243. UNITED STATES TRADE REPRESENTATIVE.**

15 Section 141 of the Trade Act of 1974 (19 U.S.C. 2171)
16 is amended—

17 (1) by inserting before the semicolon at the end of
18 subsection (d)(1) the following: “, except that not more
19 than 20 individuals may be employed without regard to
20 any provision of law regulating the employment or
21 compensation at rates not to exceed the rate of pay for
22 level IV of the Executive Schedule in section 5314 of
23 title 5, United States Code”; and

24 (2) by amending subsection (f)(1)—

(A) by striking out “\$14,179,000 for fiscal year 1985” and inserting in lieu thereof “\$13,582,000 for fiscal year 1986”, and

(B) by striking out “\$80,000” and inserting in lieu thereof “\$68,000”.

PART C—USER FEES FOR CUSTOMS SERVICES

SEC. 251. FEES TO OFFSET EXPENSES INCURRED IN PROCESSING ARRIVALS IN THE UNITED STATES.

Section 214 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 58a) is amended to read as follows:

“SEC. 214. (a) The Secretary of the Treasury shall charge and collect the following fees to cover the expenses incurred by the Customs Service in processing arrivals at ports of entry in the customs territory of the United States:

“(1) For the arrival of a commercial vessel of 100 or more tons, \$425.

“(2) For the arrival of a commercial truck, \$5.

“(3) For the arrival of a railroad car, whether passenger or freight, \$5.

“(4) For all arrivals made during a calendar year by a private aircraft or private vessel, \$25.

“(5) For the arrival in the United States of each passenger aboard a commercial vessel or commercial

1 aircraft from a place outside the United States other
2 than a place described in paragraph (6), \$5.

3 “(6) For the arrival in the United States of each
4 passenger aboard a commercial vessel, commercial air-
5 craft, or train from Canada, Mexico, a territory or pos-
6 session of the United States, or any island that is an
7 adjacent island within the meaning of section 101(b)(5)
8 of the Immigration and Nationality Act (8 U.S.C.
9 1101(b)(5)), \$1.

10 “(b) Each person providing transportation for hire by
11 vessel, aircraft, or train shall—

12 “(1) separately identify the fee charged under sub-
13 section (a)(5) or (6), as the case may be, as a Federal
14 inspection fee on the document or ticket issued to each
15 passenger for that transportation;

16 “(2) collect the fee from the passenger at the time
17 the documentation or ticket is purchased; and

18 “(3) remit to the Secretary the fees collected
19 under paragraph (2) during each calendar quarter
20 before the 31st day after the last day of that quarter.

21 “(c) Except with respect to those services for which fees
22 are imposed under subsection (a), the Secretary of the Treas-
23 ury may charge such fees as may be necessary to cover the
24 costs of providing those services which customs officers were

1 authorized to provide under subsection (a), as in effect before
2 the date of the enactment of this subsection.

3 “(d) Notwithstanding any other provision of law, the
4 customs services required to be provided to passengers upon
5 arrival in the United States on scheduled airline flights shall
6 be adequately provided when and where needed at no cost to
7 airlines and airline passengers other than the fees imposed
8 under subsection (a).

9 “(e) The receipts for reimbursable charges, including
10 those collected under subsection (a), and expenses which
11 have been paid for out of any appropriation for collecting the
12 revenue from customs that are covered into the Treasury as
13 miscellaneous receipts under the first section of the Act of
14 March 4, 1907 (19 U.S.C. 527), shall be placed in a proprie-
15 tary account.”

16 **SEC. 252. CONFORMING AMENDMENTS.**

17 (a) **REPEAL OF APPROPRIATION REFUND AUTHOR-**
18 **ITY.**—Section 524 of the Tariff Act of 1930 (19 U.S.C.
19 1524) is repealed.

20 (b) **RAIL PASSENGER SERVICE ACT.**—Section 305(i) of
21 the Rail Passenger Service Act, as amended (45 U.S.C.
22 545(i)), is amended by striking out the last sentence thereof.

23 (c) **AIRPORT AND AIRWAY DEVELOPMENT ACT OF**
24 **1970.**—Section 53(e) of the Airport and Airway Develop-
25 ment Act of 1970 (49 U.S.C. App. 1741(e)) is repealed.

1 **SEC. 253. ADVISORY COMMITTEE.**

2 In accordance with the provisions of the Federal Advi-
3 sory Committee Act, the Secretary of the Treasury shall es-
4 tablish an advisory committee, whose membership shall con-
5 sist of representatives from the airline, shipping, and other
6 transportation industries, the general public, and others who
7 may be subject to any fee or charge (1) authorized by law, or
8 (2) proposed by the Customs Service for the purpose of cov-
9 ering expenses incurred by the Customs Service. The adviso-
10 ry committee shall meet on a periodic basis and shall advise
11 the Secretary on issues related to the performance of the
12 customs services. This advice shall include, but not be limited
13 to, such issues as the time periods during which such services
14 should be performed, the proper number and deployment of
15 inspection officers, the level of fees, and the appropriateness
16 of any proposed fee. The Secretary shall give substantial con-
17 sideration to the views of the advisory committee in the exer-
18 cise of his duties.

19 **SEC. 254. EFFECTIVE PERIOD FOR FEES.**

20 The fees authorized under section 214(a) of the Customs
21 Procedural Reform and Simplification Act of 1978 (as
22 amended by section 251) shall be charged with respect to
23 arrivals in the United States occurring after the 180th day
24 after the date of the enactment of this Act and before the
25 close of the 3-year period beginning on that day.

1 **TITLE III—PROVISIONS RELATING**
2 **TO AID TO FAMILIES WITH DE-**
3 **PENDENT CHILDREN**

Sec. 301. Improvements in AFDC quality control standards and procedures.

Sec. 302. Grants for programs to prevent teenage pregnancies and to assist pregnant individuals and teenage parents in achieving self-sufficiency.

Sec. 303. Mandatory provision of aid with respect to dependent children in two-parent families.

4 **SEC. 301. IMPROVEMENTS IN AFDC QUALITY CONTROL**
5 **STANDARDS AND PROCEDURES.**

6 (a) **IN GENERAL.**—Section 403(i) of the Social Security
7 Act is amended to read as follows:

8 “(i)(1)(A) In order to establish and maintain improved
9 quality control standards and procedures in the operation and
10 administration of State plans approved under this part—

11 “(i) each State, in accordance with a timetable
12 and standards which shall be established by the Secretary
13 in regulations, shall—

14 “(I) collect a statistically reliable sample of
15 the cases under its approved State plan under this
16 part for each fiscal year or (at the option of the
17 State) for each of the two six-month periods in
18 such year, for purposes of quality control review
19 under this subsection,

20 “(II) review the sample so collected and (on
21 the basis of such review) make its original findings
22 with respect to errors for the period involved, and

1 “(III) submit such findings to the Secretary;

2 “(ii) the Secretary, after studying the State’s
3 original findings as submitted under clause (i)(III), shall
4 select specified cases for further review and notify the
5 State thereof; and the State shall submit to the Secre-
6 tary the records of the cases so selected and specified;

7 “(iii) the Secretary shall review and analyze the
8 case records submitted under clause (ii) and (on the
9 basis of such review and the State’s original findings)
10 shall determine the State’s error rate for the period in-
11 volved (without any adjustment under paragraph (2)(C))
12 and notify the State of such error rate within six
13 months after the close of the fiscal year or within six
14 months after the date on which the sample is submit-
15 ted, whichever is later; and

16 “(iv) the State shall develop and submit to the
17 Secretary (except as provided by subparagraph (B)) a
18 corrective action plan for eliminating or reducing errors
19 identified as a result of the reviews under clauses (i)
20 and (iii) (whether or not such errors are subject to in-
21 clusion for purposes of disallowances under paragraph
22 (2)(A)) and, after such plan has been reviewed and ap-
23 proved by the Secretary in accordance with subpara-
24 graph (C), shall implement the corrective actions pro-
25 vided for in such plan in accordance with a timetable

1 established by the Secretary in regulations; and the
2 Secretary shall continuously monitor the State's cor-
3 rective action process under such plan.

4 “(B) The requirement (in subparagraph (A)(iv)) that
5 States submit corrective action plans for eliminating or re-
6 ducing errors may be waived by the Secretary in the case of
7 any State which has consistently had an error rate below its
8 error rate tolerance level (as determined by the Secretary,
9 upon the request of the State, in the manner provided in
10 subparagraphs (B) and (C)(i) of paragraph (2)).

11 “(C) The Secretary shall establish criteria for corrective
12 action plans submitted by States under subparagraph (A)(iv),
13 and shall approve any plan so submitted upon determining
14 that it meets such criteria. If a plan so submitted is disap-
15 proved, the Secretary shall specify (in notifying the State of
16 such disapproval) the respect or respects in which the plan
17 fails to meet the criteria so established, and shall provide
18 appropriate advice and assistance to the State in eliminating
19 such failure with the objective of facilitating the resubmission
20 and approval of the plan at the earliest possible time.

21 “(D) The sample obtained under subparagraph (A)(i) by
22 a State which collected such sample on an annual basis
23 rather than electing to collect two six-month samples for the
24 fiscal year involved shall in no case include a smaller number
25 of cases than the number that the Secretary determines

1 would be required for a statistically reliable sample if the
2 State had elected to collect two six-month samples for that
3 fiscal year.

4 “(E) The requirements imposed upon a State by sub-
5 paragraph (A) with respect to the collection and review of
6 samples and the submission of the results thereof, and the
7 requirement that a State (under subparagraphs (A)(iv) and
8 (C)) submit a corrective action plan which meets the Secre-
9 tary’s criteria established under subparagraph (C), shall be
10 deemed for purposes of section 404 to be included in the
11 State’s plan approved under section 402.

12 “(2)(A) Notwithstanding subsection (a)(1) (but subject to
13 subparagraph (C) and paragraph (3)), if a State’s error rate
14 for any fiscal year (as defined in paragraph (5)(A)) exceeds
15 the error rate tolerance level determined for the State (for
16 that year) under subparagraph (B), then the Secretary shall
17 disallow Federal payments for such fiscal year with respect
18 to the State’s erroneous payments (as defined in paragraph
19 (5)(B)) to the extent that the inclusion of such erroneous pay-
20 ments in determining the State’s error rate caused such rate
21 to exceed the tolerance level so determined.

22 “(B) A State’s error rate tolerance level for any fiscal
23 year shall be 3.5 percent, increased by—

24 “(i) 0.5 percentage points if, throughout such
25 fiscal year, the plan of such State approved under this

1 part provides for the payment of aid with respect to
2 dependent children of unemployed parents as provided
3 in section 407,

4 “(ii) 0.1 percentage points for each full 20 percent
5 increment (up to a maximum of five such increments)
6 by which (I) the ratio of the number of families with
7 earned income who are receiving aid under such
8 State’s plan approved under this part to the total
9 number of families receiving such aid exceeds (II) the
10 average ratio, per State, of the number of families with
11 earned income who are receiving aid under all of the
12 State plans approved under this part to the total
13 number of families receiving such aid, and

14 “(iii) 0.1 percentage points for each full 20 per-
15 cent increment (up to a maximum of five such incre-
16 ments) by which (I) the population per square mile of
17 land area in such State exceeds (II) the average popu-
18 lation per square mile of land area, per State, in all of
19 the States having plans approved under this part.

20 “(C) In determining the error rate in any State for pur-
21 poses of this paragraph—

22 “(i) such rate shall be fixed at the midpoint of the
23 standard interval for errors within which the State’s
24 true error rate falls (as determined without regard to
25 this clause on the basis of the sample or samples col-

1 lected by the State under paragraph (1)(A)(i)), or at the
2 lower bound of such standard interval in the case of a
3 State which has collected a sample or samples suffi-
4 ciently large to produce a lower limit of such interval
5 no more than 2.5 percentage points below the mid-
6 point; and

7 “(ii) errors which are technical in nature, and
8 which would not change the AFDC payment levels in-
9 volved, shall be disregarded.

10 For purposes of clause (i), the lower limit of the standard
11 interval for errors within which a State’s true error rate falls
12 shall be calculated in accordance with regulations prescribed
13 by the Secretary to adjust for variability among the States in
14 the number, proportion, or dollar value of cases in which the
15 State’s findings under paragraph (1)(A)(i)(II) (with respect to
16 errors in its sample or samples collected under paragraph
17 (1)(A)(i)(I)) differ from the Secretary’s findings with respect
18 to the State’s error rate under paragraph (1)(A)(iii).

19 “(D) The total amount of the disallowances that would
20 otherwise be imposed with respect to any State under sub-
21 paragraph (A) on account of an error rate in excess of the
22 applicable error rate tolerance level for any fiscal year shall
23 be reduced by the Federal share of any overpayments collect-
24 ed by such State (on account of erroneous payments) during
25 that fiscal year.

1 “(3)(A) The Secretary, in accordance with this para-
2 graph, may waive all or any part of any disallowance that
3 would otherwise be imposed with respect to a State under
4 paragraph (2)(A) if such State is unable to reach the applica-
5 ble error rate tolerance level for the fiscal year involved de-
6 spite a good-faith effort by such State.

7 “(B) Any State may request a waiver of all or part of
8 any disallowance that would otherwise be imposed with re-
9 spect to such State for any fiscal year under paragraph
10 (2)(A), basing such request upon a showing—

11 “(i) that the State has made (and is continuing to
12 make) a good-faith effort to reduce or eliminate the er-
13 roneous payments involved but was unable to reach the
14 applicable error rate tolerance level for such fiscal year
15 despite that effort; or

16 “(ii) that (I) the Secretary’s determination of the
17 State’s error rate for such fiscal year was made incor-
18 rectly or in a manner inconsistent with the provisions
19 of this subsection, and (II) the State’s error rate, if de-
20 termined correctly and in a proper manner, would be
21 lower than the rate so determined by the Secretary.

22 The Secretary shall consider and review such request, and
23 either approve it or disapprove it in whole or in part, in ac-
24 cordance with a timetable which shall be specified in regula-
25 tions. If the Secretary disapproves the request, the State may

1 appeal the Secretary's decision to the Grant Appeals Board
2 in the Department of Health and Human Services for such
3 further action as may be provided for by law or regulations
4 (including judicial review of the Secretary's decision or the
5 Board's determination).

6 “(C) In considering and reviewing any request for a
7 waiver submitted by a State under this paragraph, the Secre-
8 tary shall take into account—

9 “(i) factors beyond the State's control (including
10 disasters, strikes by State or other staff personnel en-
11 gaged in determining eligibility or processing cases,
12 sudden workload changes resulting from changes in
13 Federal or State laws or regulations or from rapid
14 caseload growth, and State actions resulting from in-
15 correct policy interpretations by Federal officials);

16 “(ii) factors relating to agency commitment, in-
17 cluding demonstrated commitment by upper level State
18 officials to the error reduction program under this sub-
19 section, the sufficiency and quality of operational sys-
20 tems designed to reduce errors, the use of effective
21 systems and procedures for the statistical and program
22 analysis of quality control and related data, and effec-
23 tive management and execution of the corrective action
24 process;

1 “(iii) the State’s past performance with respect to
2 erroneous payments, including past error rate levels
3 and past error rate reduction efforts;

4 “(iv) the cost effectiveness of error rate reduction,
5 both in general and in the particular circumstances ex-
6 isting within the State; and

7 “(v) such other factors as the Secretary may de-
8 termine to be appropriate, as specified in regulations or
9 as detailed by the State in its waiver request.

10 The Secretary’s regulations shall specify the factors to be
11 considered and the criteria to be used in assessing waiver
12 requests under this paragraph, and shall indicate the relative
13 weight or importance of each of such factors and criteria in
14 order to assist States in determining the appropriateness of
15 proposed requests.

16 “(D) Notwithstanding the preceding provisions of this
17 paragraph, the Secretary shall in any case grant a waiver
18 requested by a State under subparagraph (B) for any fiscal
19 year if such State’s corrective action plan submitted under
20 paragraph (1)(A)(iv) or (1)(C), or a separate plan for the re-
21 duction of errors submitted by such State along with its
22 waiver request, provides in detail for the expenditure of addi-
23 tional State and local funds for the reduction of errors in such
24 fiscal year in a total amount (over and above the amount of
25 State and local funds that would otherwise be expended in

1 such fiscal year for the administration of the State plan ap-
2 proved under this part) equal to or exceeding one-half of the
3 net amount of the disallowances that would otherwise be im-
4 posed with respect to such State under paragraph (2)(A) for
5 such fiscal year. Expenditures of additional State and local
6 funds for the reduction of errors as provided for in the correc-
7 tive action plan or separate plan described in the preceding
8 sentence shall be considered (for purposes of subsection (a)) to
9 be expenditures for the proper and efficient administration of
10 the State plan approved under this part.

11 “(4)(A) Each State agency administering a plan ap-
12 proved under this part shall, at such times and in such form
13 as the Secretary may specify, provide information on the
14 rates of erroneous payments made in connection with its ad-
15 ministration of such plan, together with any other data which
16 the Secretary may request that are reasonably necessary for
17 the Secretary to carry out the provisions of this subsection.

18 “(B) If a State fails to cooperate with the Secretary in
19 providing information necessary to carry out this subsection,
20 the Secretary, directly or through such contractual or other
21 arrangements as the Secretary may find appropriate, shall
22 establish the error rates for that State on the basis of the best
23 data reasonably available and in accordance with such tech-
24 niques for sampling and estimating as the Secretary may find
25 appropriate.

1 “(C) In any case in which it is necessary for the Secre-
2 tary to exercise the authority under subparagraph (B) to de-
3 termine a State’s error rate for a fiscal year, the amount that
4 would otherwise be payable to such State under this part for
5 quarters in such year shall be reduced by the costs incurred
6 by the Secretary in making such determination.

7 “(5) For purposes of this subsection—

8 “(A) the term ‘error rate’, with respect to any
9 State for any fiscal year, means the ratio of such
10 State’s erroneous payments for such year (as defined in
11 subparagraph (B)) to its total payments under the State
12 plan approved under this part for such year, deter-
13 mined (except as otherwise specifically provided) sub-
14 ject to the adjustments provided for in paragraph
15 (2)(C); and

16 “(B) the term ‘erroneous payments’ means—

17 “(i) payments to ineligible families receiving
18 assistance, and

19 “(ii) overpayments to eligible families receiv-
20 ing assistance.

21 “(6) This subsection shall not apply with respect to
22 Puerto Rico, Guam, or the Virgin Islands.”.

23 (b) **EFFECTIVE DATE.**—The amendment made by sub-
24 section (a) shall be effective only with respect to quarters in
25 the fiscal year 1983 and subsequent fiscal years; except that

1 such amendment may also be effective in the case of any
2 State, at the election of the State made in such manner and
3 within such time as the Secretary of Health and Human
4 Services shall by regulation prescribe, with respect to quar-
5 ters in the fiscal year 1982 or with respect to quarters in the
6 fiscal years 1981 and 1982.

7 **SEC. 302. GRANTS FOR PROGRAMS TO PREVENT TEENAGE**
8 **PREGNANCIES AND TO ASSIST PREGNANT INDIVIDUALS AND TEENAGE PARENTS IN ACHIEV-**
9 **ING SELF-SUFFICIENCY.**
10

11 (a) **IN GENERAL.**—Part A of title IV of the Social Se-
12 curity Act is amended by adding at the end thereof the fol-
13 lowing new section:

14 “GRANTS FOR PROGRAMS TO PREVENT TEENAGE PREG-
15 NANCIES AND TO ASSIST PREGNANT INDIVIDUALS
16 AND TEENAGE PARENTS OF YOUNG CHILDREN IN
17 ACHIEVING SELF-SUFFICIENCY

18 “SEC. 416. (a)(1) For the purpose of assisting States
19 and localities in establishing and carrying out programs—

20 “(A) to reduce the rate of teenage pregnancies in
21 AFDC families; and

22 “(B) to help pregnant individuals and teenage par-
23 ents of young children in such families, who might oth-
24 erwise become long-term recipients of aid to families
25 with dependent children, in achieving self-sufficiency,

1 there are authorized to be appropriated the sum of
2 \$50,000,000 for the fiscal year 1986 and the sum of
3 \$100,000,000 for the fiscal year 1987, to be used by the
4 Secretary in making grants for such programs in accordance
5 with this section. Any State which provides for the establish-
6 ment and carrying out of one or more such programs in ac-
7 cordance with this section shall be entitled to receive a grant
8 under this section for each such fiscal year, in an amount
9 determined under subsection (d).

10 “(2) The State agency administering or supervising the
11 administration of the State’s plan approved under section 402
12 shall be responsible for administering or supervising the ad-
13 ministration of the State’s programs described in paragraph
14 (1) for which grants under this section are made. Such grants
15 shall be made directly to the State agency, and may be—

16 “(A) used by such agency for the purpose of con-
17 ducting and providing in accordance with this section
18 (directly or under contracts with others) the activities
19 and services required to carry out the program or pro-
20 grams involved, or

21 “(B) paid by such agency to local school districts
22 or to other local agencies or public or private nonprofit
23 entities meeting the requirements of this section, under
24 arrangements made with such districts or (through
25 such districts) with such other agencies and entities, for

1 use by such districts, agencies, or entities in conducting
2 and providing in accordance with this section (directly
3 or under contracts with others) the activities and serv-
4 ices required to carry out the program or programs
5 involved;

6 but such grants may be used only in areas which are deter-
7 mined by the State agency to be areas of high teenage preg-
8 nancy or high infant mortality, and it must be the objective of
9 any program for which such grants are used to carry out both
10 the purpose described in subparagraph (A) of paragraph (1)
11 and the purpose described in subparagraph (B) of such
12 paragraph.

13 “(3) In order to qualify for a grant under this section for
14 any fiscal year with respect to a program or programs de-
15 scribed in paragraph (1) in any State, the State agency must
16 submit to the Secretary no later than 3 months after the
17 beginning of such year, in such manner and form as the Sec-
18 retary may prescribe, a full and complete description of the
19 program together with satisfactory assurances that the pro-
20 gram will be operated in an effective and efficient manner
21 and will otherwise meet the requirements of this section.

22 “(4) Grants made under this section—

23 “(A) shall be in addition to any amounts payable
24 to States under section 403, and shall supplement and
25 not replace any other funds which may be available for

1 the same general purposes, or for the provision of serv-
2 ices of any kind to needy individuals, in the localities
3 involved, and

4 “(B) shall not be used to provide any individual
5 with services which are available to that individual
6 under a State plan approved under section 1902.

7 “(b)(1) In carrying out the purpose described in subpara-
8 graph (A) of subsection (a)(1), it shall be the objective of each
9 program under this section (subject to the availability of
10 funds) to—

11 “(A) conduct activities and provide services which
12 may help to reduce pregnancies among children, tar-
13 geting such activities and services to children who are
14 eligible for aid to families with dependent children, in
15 order to assure that such children will not be prevented
16 from achieving self-sufficiency by parental responsibil-
17 ities imposed upon them before they reach adulthood;

18 “(B) identify and address all of the factors which
19 may play important roles in determining teenage
20 sexual activity and contraceptive use;

21 “(C) encourage active participation by the parents
22 of the children involved in the activities and services
23 being conducted or provided under the program; and

24 “(D) encourage the children involved to develop
25 education and employment goals for the future, com-

1 bining new and existing resources to assist such chil-
2 dren in achieving those goals and encouraging such
3 children to postpone sexual activity and child bearing
4 and to assume responsibility for family planning in
5 order to achieve them.

6 “(2)(A) To the maximum extent appropriate and feasi-
7 ble, the activities conducted and services provided in carrying
8 out the purpose described in subparagraph (A) of subsection
9 (a)(1) shall include the services which are made available to
10 pregnant individuals and teenage parents with young children
11 under the program as more specifically described in sub-
12 section (c).

13 “(B) None of the activities conducted or services provid-
14 ed under this subsection or subsection (c) as a part of any
15 program under this section may include the performance of
16 abortions, or include the counseling of individuals to have
17 abortions except where the life of the mother would be en-
18 dangered if the fetus were carried to term.

19 “(c)(1) In carrying out the purpose described in subpara-
20 graph (B) of subsection (a)(1), it shall be the objective of each
21 program under this section (subject to the availability of
22 funds) to help achieve self-sufficiency for individuals under
23 the age of 25 who are eligible for aid to families with depend-
24 ent children, who (at the start of their participation in the
25 program) are pregnant or are teenage parents with children

1 under the age of 6, and who voluntarily elect to participate in
2 the program, by—

3 “(A) requiring such individuals to seek a high
4 school diploma or its equivalent or to take part in ap-
5 propriate training,

6 “(B) providing each participant with academic or
7 vocational training, job counseling, employment readi-
8 ness, and job placement services,

9 “(C) integrating and coordinating services other-
10 wise available to participants, and

11 “(D) providing each participant with other serv-
12 ices and assistance designed to meet such objective, in-
13 cluding an individualized assessment and plan, as more
14 particularly described in paragraph (3).

15 “(2) Participation in program activities conducted and
16 services provided with the objective specified in paragraph (1)
17 shall be limited to individuals under the age of 25 residing
18 within the area covered by the program who are pregnant, or
19 who are teenage parents of dependent children under the age
20 of 6, and shall include any such individual only if he or she
21 (at the time of initial participation in the program)—

22 “(A) has not graduated from high school or its
23 equivalent, and

24 “(B) voluntarily elects (subject to subsection (e))
25 to participate;

1 and the funds made available under this section may be used
2 only for activities and services so conducted or provided in
3 the case of individuals (described in the preceding provisions
4 of this paragraph) who are eligible under this part (individual-
5 ly or as members of families) for aid to families with depend-
6 ent children under the State's plan approved under section
7 402, or whose children are eligible for such aid.

8 “(3) A program described in subsection (a)(1) meets the
9 requirements of this section only if the activities conducted
10 and services provided with the objective specified in para-
11 graph (1) include—

12 “(A) provision for the assignment to each partici-
13 pant of an agency staff person who, utilizing the case
14 management approach and in coordination with the
15 participant, will establish an individualized program,
16 based on an individualized assessment of need and set
17 forth in an individualized written plan, to meet the
18 health needs of the participant and his or her depend-
19 ent (or unborn) child, and to ensure the provision and
20 coordination (on behalf of such participant and child) of
21 such other services as the State determines to be nec-
22 essary or appropriate to carry out the objective of this
23 section, including, at a minimum, academic and voca-
24 tional services, health services, training in parenting

1 skills, job counseling, employment readiness, job place-
2 ment, transportation, and child day care;

3 “(B) provision for the integration and coordination
4 of services which are otherwise available at the local
5 level to individuals under age 25 who are pregnant or
6 are teenage parents with children under age 6 and
7 which are offered under this part, under parts B and C
8 of this title, under title V, under title XX, under the
9 Job Training Partnership Act, and under other Federal
10 and State programs that would assist in achieving the
11 objectives of the program under this section;

12 “(C) provision for the coordination (with the local
13 school system) of academic and vocational programs
14 leading to a high school diploma or its equivalent, with
15 a requirement of active participation in an educational
16 program leading to a high school diploma or its equiva-
17 lent, or in an appropriate training program, as a condi-
18 tion of participation in the program under this section;

19 “(D) provision for job counseling, training, em-
20 ployment readiness, and job placement and relevant
21 supportive services independently or in conjunction
22 with one or more programs of employment and training
23 under this part or part C of this title, under the Job
24 Training Partnership Act, or under another Federal or
25 State law;

1 “(E) provision of child care at the program site or
2 of other child day care services which have been con-
3 tracted for on a reimbursable basis, to the extent nec-
4 essary for teenage parents to participate effectively in
5 the program, with a requirement that such care and
6 services meet applicable State and local standards and
7 with emphasis upon services that are compatible with
8 the goal of achieving self-sufficiency;

9 “(F)(i) assurances that all such child care and
10 services, and any transportation to and from work
11 which may be necessary for a teenage parent or preg-
12 nant individual to participate effectively in the pro-
13 gram, will be provided or arranged for without any
14 charge to such parent or individual while he or she is
15 participating in any phase of the program, and

16 “(ii) assurances that such care, services, and
17 transportation will be provided or arranged for on a
18 sliding scale basis (with charges based on ability to
19 pay) during at least the first 6 months of work after
20 the teenage parent or pregnant individual has complet-
21 ed his or her participation in the program, in order to
22 ensure a smooth transition into the workforce;

23 “(G) provision for variations in the selection and
24 offering of services to individual participants to the
25 extent necessary to take account of differences in the

1 needs of such participants and in their age, family com-
2 position, cultural background, and geographic location;

3 “(H) assurances that, in order to encourage par-
4 ticipants to take advantage of the full range of services
5 offered, as many of such services as possible will be
6 provided at a single site, with programs and activities
7 being conducted in the local schools to the maximum
8 extent feasible;

9 “(I) provision for the establishment of peer groups
10 of participants, led by experienced group counselors, to
11 enable such participants to meet and discuss program-
12 related problems and issues and to share their common
13 concerns, and to serve as a medium for the communi-
14 cation and dissemination of relevant information; and

15 “(J) provision for the establishment of an outreach
16 program designed to attract pregnant individuals and
17 teenage parents of young children who would be eligi-
18 ble to participate.

19 Program activities conducted and services provided with the
20 objective specified in paragraph (1) must include but need not
21 be limited to the services and assistance set forth in the pre-
22 ceding provisions of this paragraph, and may include such
23 other health, family planning, educational, training, and
24 social services as may be needed to achieve such objective in

1 cases where the necessary funding is not available from other
2 sources.

3 “(4) In the case of a teenage parent participating in
4 program activities conducted or services provided with the
5 objective specified in paragraph (1), absences from his or her
6 child for the purpose of attending a secondary or post-second-
7 ary school or participating in other education or training ac-
8 tivities as a part of the program shall not be considered ‘ab-
9 sences from the child’ in determining whether he or she is
10 exempted under clause (v) of section 402(a)(19)(A) from the
11 requirement of registration under that section.

12 “(5) As used in this section, the term ‘teenage parent’
13 means a male or female individual who is the parent of a
14 child under the age of 6 and who (A) has not attained the age
15 of 20 or (B) became the parent of such child before attaining
16 the age of 20.

17 “(d)(1) The grant to which any State is entitled from the
18 sum appropriated pursuant to subsection (a)(1) for any fiscal
19 year shall be in an amount bearing the same ratio to the sum
20 so appropriated as the amount expended by such State during
21 the preceding fiscal year as aid to families with dependent
22 children under its plan approved under section 402 bears to
23 the total amount expended by all the States during such pre-
24 ceding year as aid to families with dependent children under
25 their plans so approved.

1 “(2) If any State does not qualify for a grant under this
2 section for any fiscal year within the time provided in subsec-
3 tion (a)(3), the amount of the grant to which it would have
4 been entitled for such year shall be reallocated to one or
5 more other States on the basis of their relative need for addi-
6 tional assistance under this section (as determined by the
7 Secretary).

8 “(e) If any State wishes to require participation in ac-
9 tivities and services provided under subsection (c) by all indi-
10 viduals who are eligible to participate in such activities and
11 services (or would be eligible to so participate if they satisfied
12 paragraph (2)(B) of such subsection) and with respect to
13 whose participation funds made available under this section
14 may be used, such State may request that the Secretary
15 waive the requirement of such paragraph (2)(B) and permit
16 the State to make participation mandatory for all such indi-
17 viduals. The Secretary shall grant any such request and
18 permit the State to require participation by all such individ-
19 uals if he or she determines that—

20 “(1) the funds available for the program from
21 Federal, State, local, and other sources (including this
22 section) are sufficient to conduct all of the activities
23 and provide all of the services which would be neces-
24 sary to serve such individuals; and

1 “(2) mandatory participation in the program by all
2 such individuals can be effectively administered and en-
3 forced by the State and the locality or localities
4 involved.

5 “(f)(1) Prior to expenditure by a State of any grant pay-
6 ments made to it under this section for any fiscal year, the
7 State shall report to the Secretary on the intended use of
8 such payments; and such report shall be revised from time to
9 time throughout the fiscal year involved if and to the extent
10 that there are significant changes in such use.

11 “(2) No later than March 1, 1987, each State shall
12 submit to the Secretary a full and complete report on the
13 activities carried out with the proceeds of the grant or grants
14 theretofore made to it under this section. The report—

15 “(A) shall be in such form and contain such infor-
16 mation as may be necessary to provide an accurate de-
17 scription of such activities, to provide a complete
18 record of the purposes for which the grant funds were
19 spent, to indicate the extent to which such funds were
20 spent in a manner consistent with the report or reports
21 submitted under paragraph (1), and to indicate the
22 extent to which the expenditure of such funds succeed-
23 ed in accomplishing the objectives for which the grant
24 was made, and

1 “(B) shall specifically contain such information as
2 the Secretary may require in order to include in his or
3 her evaluation under paragraph (3) the overall descrip-
4 tion referred to in subparagraph (B) thereof.

5 “(3)(A) No later than July 1, 1987, the Secretary, on
6 the basis of the reports submitted by a State under para-
7 graphs (1) and (2) for the fiscal year 1986 and of such addi-
8 tional information as he or she may obtain or develop, shall
9 evaluate the use by such State of the grant or grants made to
10 it under this section for that year in the light of the purposes
11 of this section, with the objective of appraising the achieve-
12 ments of the programs for which such grants were made and
13 developing comprehensive information and data on the basis
14 of which decisions can be made with respect to the improve-
15 ment of such programs and the desirability of providing fur-
16 ther assistance in subsequent years. The Secretary shall
17 report such evaluation to the Congress.

18 “(B) As a part of the evaluation under subparagraph (A)
19 the Secretary shall include, at a minimum, a detailed overall
20 description of the number and characteristics of the individ-
21 uals served by the programs, the various kinds of activities
22 conducted and services provided, and the results achieved,
23 and shall set forth in detail his or her findings and comments
24 with respect to the various State programs and a statement
25 of his or her plans and recommendations for the future.

1 “(C) If as a result of the evaluation the Secretary deter-
2 mines that any such grant was used in a manner inconsistent
3 with the purposes of this section or the objective stated in
4 subparagraph (A) or if the reports submitted by the State
5 were insufficient to indicate whether or not the grant was so
6 used, the Secretary shall notify the State of his or her disap-
7 proval, and the inconsistent use of such grant shall be subject
8 to sanctions of the type described in section 404(a) as though
9 this section were a part of the approved State plan and such
10 inconsistent use were a failure to comply with a provision
11 required by section 402(a) to be included in such plan.

12 “(g) Grant payments to a State under this section for
13 any fiscal year—

14 “(1) shall be used only for the specific purposes
15 described in this section;

16 “(2) may be made on an estimated basis in ad-
17 vance of the determination of the exact grant amount,
18 with appropriate subsequent adjustments to take ac-
19 count of any error in the estimates; and

20 “(3) shall be expended by such State in that fiscal
21 year or in the succeeding fiscal year.

22 “(h) Notwithstanding any other provision of this title,
23 payments made and services provided to participants in a
24 program under this section, as a direct consequence of their
25 participation in such program, shall not be considered as

1 income or resources for purposes of determining their eligibil-
2 ity (or the eligibility of any other persons) for aid under the
3 State's plan approved under section 402, or for purposes of
4 determining the level of such aid.''.
5

6 (b) DURATION OF PROGRAM.—Subject to section
7 416(g)(3) of the Social Security Act (as added by subsection
8 (a)), the amendment made by subsection (a) shall be in effect
9 only from October 1, 1985, until September 30, 1987.

10 SEC. 303. MANDATORY PROVISION OF AID WITH RESPECT TO
11 DEPENDENT CHILDREN IN TWO-PARENT FAMILIES.

12 (a) REQUIREMENT THAT AID BE PROVIDED.—Section
13 402(a) of the Social Security Act is amended—

14 (1) by striking out “and” after the semicolon at
15 the end of paragraph (38);

16 (2) by striking out the period at the end of para-
17 graph (39) and inserting in lieu thereof “; and”; and

18 (3) by inserting immediately after paragraph (39)
19 the following new paragraph:

20 “(40) provide that payments of aid will be made
21 under the plan with respect to dependent children of
22 unemployed parents, in accordance with section 407.’’.

23 (b) CONFORMING AMENDMENTS.—(1) Section 407(b) of
24 such Act is amended by striking out “(b) The provisions” and

1 all that follows down through “(1) requires” and inserting in
2 lieu thereof the following:

3 “(b) In providing for the payment of aid under the
4 State’s plan approved under section 402 in the case of fami-
5 lies which include dependent children within the meaning of
6 subsection (a) of this section, as required by section
7 402(a)(40), the State’s plan—

8 “(1) shall require”.

9 (2) Section 407(b)(2) of such Act is amended by striking
10 out “provides—” and inserting in lieu thereof “shall
11 provide—”.

12 (c) **QUARTERS OF WORK BASED ON EDUCATION OR**
13 **TRAINING.**—(1) Section 407(d)(1) of such Act is amended—

14 (A) by inserting “(A)” after “means a calendar
15 quarter”; and

16 (B) by inserting before the semicolon at the end
17 thereof the following: “, or (B) if the State plan so pro-
18 vides (but subject to the last sentence of this subsec-
19 tion), in which such individual (i) was in regular full-
20 time attendance as a student at an elementary or sec-
21 ondary school, (ii) was in regular full-time attendance
22 in a course of vocational or technical training designed
23 to fit him or her for gainful employment, or (iii) partici-
24 pated in an education or training program established
25 under the Job Training Partnership Act”.

1 (2) Section 407(d) of such Act is further amended by
 2 adding at the end thereof (after and below paragraph (4)) the
 3 following new sentence:

4 “No individual shall be credited during his or her lifetime (for
 5 purposes of subsection (b)(1)(C)(i)) with more than 4 ‘quarters
 6 of work’ based on attendance in a course or courses of voca-
 7 tional or technical training as described in paragraph (1)(B)(ii)
 8 of this subsection.”.

9 (3) Section 407(b)(1)(C)(i) of such Act is amended by
 10 inserting after “6 or more quarters of work (as defined in
 11 subsection (d)(1))” the following: “, including 2 or more quar-
 12 ters of work as defined in subsection (d)(1)(A),”.

13 (d) EFFECTIVE DATE.—The amendments made by this
 14 section shall become effective October 1, 1986.

15 **TITLE IV—PROVISIONS RELATING**
 16 **TO RAILROAD UNEMPLOY-**
 17 **MENT REPAYMENT TAX AND**
 18 **UNEMPLOYMENT COMPENSA-**
 19 **TION**

Sec. 401. Railroad unemployment repayment tax.

Sec. 402. Extension of borrowing authority under the Railroad Unemployment In-
 surance Act.

Sec. 403. Supplemental unemployment compensation for certain individuals.

20 **SEC. 401. RAILROAD UNEMPLOYMENT REPAYMENT TAX.**

21 (a) RATE OF TAX.—Subsection (c) of section 3321 of
 22 the Internal Revenue Code of 1954 (relating to rate of rail-

1 road unemployment repayment tax) is amended to read as
2 follows:

3 “(c) RATE OF TAX.—For purposes of this section—

4 “(1) IN GENERAL.—The applicable percentage for
5 any taxable period shall be the sum of—

6 “(A) the basic rate for such period, and

7 “(B) the surtax rate (if any) for such period.

8 “(2) BASIC RATE.—For purposes of paragraph
9 (1)—

10 “(A) FOR PERIODS BEFORE 1989.—The
11 basic rate shall be—

12 “(i) 4.3 percent for the taxable period
13 beginning on July 1, 1986, and ending on
14 December 31, 1986,

15 “(ii) 4.7 percent for the 1987 taxable
16 period, and

17 “(iii) 6 percent for the 1988 taxable
18 period.

19 “(B) FOR PERIODS AFTER 1988.—For any
20 taxable period beginning after December 31,
21 1988, the basic rate shall be the sum of—

22 “(i) 2.9 percent, plus

23 “(ii) 0.3 percent for each preceding tax-
24 able period after 1988.

1 In no event shall the basic rate under this sub-
2 paragraph exceed 5 percent.

3 “(3) SURTAX RATE.—For purposes of paragraph
4 (1), the surtax rate shall be—

5 “(A) 3.5 percent for any taxable period if, as
6 of September 30 of the preceding calendar year,
7 there was a balance of transfers (or unpaid inter-
8 est thereon) made after September 30, 1985, to
9 the railroad unemployment insurance account
10 under section 10(d) of the Railroad Unemploy-
11 ment Insurance Act, and

12 “(B) zero for any other taxable period.

13 “(4) BASIC RATE NOT TO APPLY TO RAIL
14 WAGES PAID AFTER SEPTEMBER 30, 1990.—The
15 basic rate under paragraph (1)(A) shall not apply to
16 rail wages paid after September 30, 1990.”

17 (b) BASE OF TAX TO BE COMPENSATION USED FOR
18 RAILROAD RETIREMENT TAX PURPOSES.—Subsection (b)
19 of section 3323 of such Code (defining rail wages) is amended
20 to read as follows:

21 “(b) RAIL WAGES.—

22 “(1) IN GENERAL.—For purposes of this chapter,
23 the term ‘rail wages’ means compensation (as defined
24 in section 3231(e) for purposes of the tax imposed by

1 section 3201(a)) with the modifications specified in
2 paragraph (2).

3 “(2) MODIFICATIONS.—In applying subsection (e)
4 of section 3231 for purposes of paragraph (1)—

5 “(A) ONLY EMPLOYMENT COVERED BY
6 RAILROAD UNEMPLOYMENT INSURANCE ACT
7 TAKEN INTO ACCOUNT.—Such subsection (e)
8 shall be applied—

9 “(i) by substituting ‘rail employment’ for
10 ‘services’ each place it appears,

11 “(ii) by substituting ‘rail employer’ for
12 ‘employer’ each place it appears, and

13 “(iii) by substituting ‘rail employee’ for
14 ‘employee’ each place it appears.

15 “(B) \$7,000 WAGE BASE.—Such subsection
16 (e) shall be applied by substituting for ‘the appli-
17 cable base’ in paragraph (2)(A)(i) thereof—

18 “(i) except as provided in clauses (ii)
19 and (iii), ‘\$7,000’,

20 “(ii) ‘\$3,500’ for the taxable period be-
21 ginning on July 1, 1986, and ending on De-
22 cember 31, 1986, and

23 “(iii) for purposes of applying the basic
24 rate under section 3321(c)(1)(A), ‘\$5,250’ for

1 the taxable period beginning on January 1,
2 1990.

3 “(C) SUCCESSOR EMPLOYERS.—For pur-
4 poses of this subsection, rules similar to the rules
5 applicable under section 3231(e)(2)(C) shall
6 apply.”

7 (c) USE OF TAXES.—

8 (1) IN GENERAL.—Paragraph (2) of section 232(a)
9 of the Railroad Retirement Revenue Act of 1983 (re-
10 lating to tax used to repay loans made to railroad un-
11 employment insurance account) is amended to read as
12 follows:

13 “(2) TAXES CREDITED AGAINST LOANS TO RAIL-
14 ROAD UNEMPLOYMENT INSURANCE ACCOUNT.—

15 “(A) TAXES ATTRIBUTABLE TO BASIC
16 RATE TO REDUCE RAILROAD UNEMPLOYMENT
17 LOANS MADE BEFORE OCTOBER 1, 1985.—So
18 much of the amount transferred under paragraph
19 (1) as is attributable to the basic rate under sec-
20 tion 3321(c)(1)(A) of the Internal Revenue Code
21 of 1954 shall be credited against, and operate to
22 reduce, the outstanding balance of railroad unem-
23 ployment loans made before October 1, 1985.

24 “(B) TAXES ATTRIBUTABLE TO SURTAX
25 RATE TO REDUCE RAILROAD UNEMPLOYMENT

1 LOANS MADE AFTER SEPTEMBER 30, 1985.—So
2 much of the amount transferred under paragraph
3 (1) as is attributable to the surtax rate under sec-
4 tion 3321(c)(1)(B) of such Code shall be credited
5 against, and operate to reduce, the outstanding
6 balance of railroad unemployment loans made
7 after September 30, 1985.”

8 (2) TRANSFERS TO RAILROAD UNEMPLOYMENT
9 FUND AFTER LOAN REPAID.—Subsection (c) of section
10 232 of such Act is amended—

11 (A) by striking out “the amount” in para-
12 graph (1) and inserting in lieu thereof “the
13 amount described in subparagraph (A) or (B) of
14 subsection (a)(2)”, and

15 (B) by inserting before the comma at the end
16 of paragraph (2) “against which the amount de-
17 scribed in such subparagraph may be credited
18 under such subparagraph”.

19 (d) TECHNICAL AMENDMENTS.—

20 (1) Subsection (a) of section 3322 of such Code
21 (relating to taxable period) is amended—

22 (A) by adding “and” at the end of paragraph
23 (1), and

24 (B) by striking out paragraphs (2) and (3)
25 and inserting in lieu thereof the following:

1 “(2) each calendar year after 1986.”

2 (2) Subsection (b) of section 3322 of such Code
3 (relating to earlier termination if loans to rail unem-
4 ployment fund repaid) is amended—

5 (A) by striking out “The tax imposed by this
6 chapter shall not apply” and inserting in lieu
7 thereof “The basic rate under section
8 3321(c)(1)(A) of the tax imposed by section 3321
9 shall not apply”, and

10 (B) by inserting “made before October 1,
11 1985,” after “no balance of transfers” in para-
12 graph (1) thereof.

13 (e) **EFFECTIVE DATE.**—The amendments made by this
14 section shall apply to remuneration paid after June 30, 1986.

15 **SEC. 402. EXTENSION OF BORROWING AUTHORITY UNDER**
16 **THE RAILROAD UNEMPLOYMENT INSURANCE**
17 **ACT.**

18 Section 10(d) of the Railroad Unemployment Insurance
19 Act is amended by striking out the last sentence thereof.

20 **SEC. 403. SUPPLEMENTAL UNEMPLOYMENT COMPENSATION**
21 **FOR CERTAIN INDIVIDUALS.**

22 (a) **IN GENERAL.**—If—

23 (1) an individual was receiving Federal supple-
24 mental compensation for the week which includes

1 March 31, 1985, or a series of consecutive weeks
2 which began with such week, and

3 (2) such individual did not meet the consecutive-
4 week eligibility requirements of the Federal Supple-
5 mental Compensation Act of 1982 during any period of
6 1 or more subsequent weeks by reason of performing
7 temporary disaster services described in subsection (e),
8 weeks in such period shall be disregarded for purposes of the
9 consecutive-week requirement of section 602(f)(2)(B) of such
10 Act, and, notwithstanding the requirements of State law re-
11 lating to the availability for work, the active search for work,
12 or the refusal to accept work, such individual shall be entitled
13 to payment of Federal supplemental compensation for each
14 week of unemployment which is described in subsection (b)
15 and for which a certification of unemployment is made by
16 such individual in accordance with subsection (c).

17 (b) WEEKS FOR WHICH PAYMENT SHALL BE
18 MADE.—A week of unemployment for which payment shall
19 be made under subsection (a) is a week which occurred
20 during the period which commences with the first week be-
21 ginning after the close of the period described in subsection
22 (a)(2) and ends with the beginning of the first week in which
23 the individual was employed after the close of such period.

24 (c) CERTIFICATION.—The certification of unemploy-
25 ment referred to in subsection (a) shall be a certification—

1 (1) that is made on a form provided by the State
2 agency concerned and signed by the individual; and

3 (2) that identifies the weeks of unemployment for
4 which the individual is making the certification.

5 (d) LIMITATION ON AMOUNT OF PAYMENT.—In no
6 case may the total amount paid to an individual under sub-
7 section (a) exceed the amount remaining in the account estab-
8 lished for such individual under section 602(e) of the Federal
9 Supplemental Compensation Act of 1982 after payments
10 were made from such account for weeks of unemployment
11 beginning before the period described in subsection (a)(2).

12 (e) DEFINITION.—For purposes of subsection (a), the
13 term “temporary disaster services” means services performed
14 as a member of the National Guard after being called up by
15 the Governor of a State to perform services related to a
16 major disaster that was declared on June 3, 1985, by the
17 President of the United States under the Disaster Relief Act
18 of 1974.

19 (f) MODIFICATION OF AGREEMENT.—(1) The Secretary
20 of Labor shall, at the earliest possible date after the date of
21 the enactment of this Act, propose to any State concerned a
22 modification of the agreement that the Secretary has with
23 such State under section 602 of the Federal Supplemental
24 Compensation Act of 1982 in order to carry out this section.

1 (2) Pending modification of the agreement, the State
 2 may make payment in accordance with the provisions of this
 3 section and shall be reimbursed in accordance with the provi-
 4 sions of section 604(a) of the Federal Supplemental Compen-
 5 sation Act of 1982. For purposes of carrying out this para-
 6 graph, the term "this subtitle" in such section 604(a) shall
 7 include this section.

8 (g) EFFECTIVE DATE.—The provisions of this section
 9 shall apply to weeks beginning after March 31, 1985.

10 **TITLE V—REVENUE PROVISIONS**

Sec. 501. Restoration of proposed cuts in Internal Revenue Service budget and further increases in funds for revenue enforcement and related purposes.

Sec. 502. Increase in rate of tax on cigarettes made permanent; portion of tax revenues dedicated to tobacco price support program.

Sec. 503. Increase in excise tax on coal.

Sec. 504. Only railroad retirement benefits equivalent to social security benefits treated as tier 1 benefits.

Sec. 505. Temporary increase in pension benefit guaranty corporation premiums for single employer plans.

11 **SEC. 501. RESTORATION OF PROPOSED CUTS IN INTERNAL** 12 **REVENUE SERVICE BUDGET AND FURTHER IN-** 13 **CREASES IN FUNDS FOR REVENUE ENFORCE-** 14 **MENT AND RELATED PURPOSES.**

15 It is the sense of the Congress that—

16 (1) the restoration of the cuts in the budget for
 17 the Internal Revenue Service for fiscal year 1986, and

18 (2) the further increase in such budget total,
 19 recommended by the Committee on Appropriations of the
 20 House of Representatives are necessary for the efficient oper-

1 ation of the Government and to carry out the purposes of this
2 Act.

3 **SEC. 502. INCREASE IN RATE OF TAX ON CIGARETTES MADE**
4 **PERMANENT; PORTION OF CIGARETTE TAX**
5 **REVENUES DEDICATED TO TOBACCO PRICE**
6 **SUPPORT PROGRAM.**

7 (a) **INCREASE IN TAX MADE PERMANENT.**—Subsec-
8 tion (c) of section 283 of the Tax Equity and Fiscal Responsi-
9 bility Act of 1982 is amended by striking out “and before
10 October 1, 1985”.

11 (b) **DEDICATION OF PORTION OF CIGARETTE TAX**
12 **REVENUES FOR TOBACCO PRICE SUPPORT PROGRAM.**—

13 (1) **IN GENERAL.**—Subchapter A of chapter 98 of
14 the Internal Revenue Code of 1954 (relating to Trust
15 Fund Code) is amended by adding at the end thereof
16 the following new section:

17 **“SEC. 9505. TOBACCO EQUALIZATION TRUST FUND.**

18 **“(a) CREATION OF TRUST FUND.**—There is established
19 in the Treasury of the United States a trust fund to be known
20 as the ‘Tobacco Equalization Trust Fund’, consisting of such
21 amounts as may be appropriated or credited to the Tobacco
22 Equalization Trust Fund as provided in this section or section
23 9602(b).

24 **“(b) TRANSFERS TO TOBACCO EQUALIZATION TRUST**
25 **FUND.**—There is hereby appropriated to the Tobacco Equali-

1 zation Trust Fund an amount equal to so much of the taxes
2 received in the Treasury after September 30, 1985, and
3 before October 1, 1990, under section 5701(b) (relating to
4 tax on cigarettes) as is attributable to such tax determined at
5 the rates of—

6 “(1) 50 cents per thousand in the case of ciga-
7 rettes taxable under section 5701(b)(1), and

8 “(2) \$1.05 per thousand in the case of cigarettes
9 taxable under section 5701(b)(2).

10 “(c) EXPENDITURES FROM TRUST FUND.—

11 “(1) IN GENERAL.—Amounts in the Tobacco
12 Equalization Trust Fund shall be available, as provided
13 in appropriation Acts, for the reimbursement of the
14 Commodity Credit Corporation for part or all of the
15 amount of any net realized losses sustained after Sep-
16 tember 30, 1985, by such Corporation under section
17 106, 106A, or 106B of the Agricultural Act of 1949
18 (or any successor tobacco support provision hereafter
19 enacted) with respect to crop years of tobacco after
20 1981.

21 “(2) REPAYMENTS AND CREDITS.—The Secre-
22 tary shall pay from time to time from the Tobacco
23 Equalization Trust Fund to the general fund of the
24 Treasury amounts equivalent to the same proportion of
25 the credits allowed, and refunds made, after September

30, 1985, and before October 1, 1990, with respect to the tax imposed by section 5701(b) as the portion the tax imposed by section 5701(b) appropriated to the Tobacco Equalization Trust Fund bears to the aggregate tax imposed by section 5701(b).”

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

“Sec. 9505. Tobacco Equalization Trust Fund.”

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 1985.

SEC. 503. INCREASE IN EXCISE TAX ON COAL.

(a) INCREASE IN TAX.—Subsections (a) and (b) of section 4121 of the Internal Revenue Code of 1954 (relating to imposition of tax on coal) are amended to read as follows:

“(a) TAX IMPOSED.—

“(1) IN GENERAL.—There is hereby imposed on coal from mines located in the United States sold by the producer a tax equal to the rate per ton determined under subsection (b).

“(2) LIMITATION ON TAX.—The amount of the tax imposed by paragraph (1) with respect to a ton of coal shall not exceed the applicable percentage (determined under subsection (b)) of the price at which such ton of coal is sold by the producer.

1 “(b) DETERMINATION OF RATES AND LIMITATION ON
2 TAX.—For purposes of subsection (a)—

In the case of sales during calendar year:	The rate for coal from underground mines is:	The rate for coal from surface mines is:	The applicable percentage is:
1986 through 1990.....	\$1.50	\$.75	6
1991 through 1995.....	\$1.60	\$.80	6.4
After 1995.....	\$1.50	\$.75	6 .”

3 (b) REDUCTION OF TAX AFTER 1995 IF LOANS MADE
4 TO BLACK LUNG DISABILITY TRUST FUND REPAID.—Sec-
5 tion 4121 of such Code is amended by striking out subsection
6 (e) and inserting in lieu thereof the following:

7 “(e) REDUCTION OF TAX AFTER 1995 IF LOANS
8 MADE TO BLACK LUNG DISABILITY TRUST FUND
9 REPAID.—

10 “(1) IN GENERAL.—In the case of sales during
11 any calendar year to which this subsection applies, for
12 purposes of subsection (a)—

13 “(A) the rate of tax on coal from under-
14 ground mines shall be \$1.00,

15 “(B) the rate of tax on coal from surface
16 mines shall be \$.50, and

17 “(C) the applicable percentage shall be 4
18 percent.

19 “(2) CALENDAR YEARS TO WHICH SUBSECTION
20 APPLIES.—This subsection shall apply to any calendar
21 year after 1995 (and all calendar years thereafter) if

1 throughout the 2 most recent fiscal years ending before
2 the beginning of such calendar year there was—

3 “(A) no balance of repayable advances made
4 to the Black Lung Disability Trust Fund, and

5 “(B) no unpaid interest on such advances.”

6 (c) EFFECTIVE DATE.—The amendments made by this
7 section shall apply to sales after December 31, 1985.

8 **SEC. 504. ONLY RAILROAD RETIREMENT BENEFITS EQUIVA-**
9 **LENT TO SOCIAL SECURITY BENEFITS TREAT-**
10 **ED AS TIER 1 BENEFITS.**

11 (a) IN GENERAL.—Paragraph (4) of section 86(d) of the
12 Internal Revenue Code of 1954 (defining social security ben-
13 efits) is amended to read as follows:

14 “(4) TIER 1 RAILROAD RETIREMENT BENEFIT.—
15 For purposes of paragraph (1), the term ‘tier 1 railroad
16 retirement benefit’ means—

17 “(A) the amount of the annuity under the
18 Railroad Retirement Act of 1974 equal to the
19 amount of the benefit to which the taxpayer
20 would have been entitled under the Social Securi-
21 ty Act if all of the service after December 31,
22 1936, of the employee (on whose employment
23 record the annuity is being paid) had been includ-
24 ed in the term employment as defined in the
25 Social Security Act, and

1 “(B) a monthly annuity amount under section
2 3(f)(3) of the Railroad Retirement Act of 1974.”

3 (b) EFFECTIVE DATE.—The amendment made by sub-
4 section (a) shall apply to any monthly benefit for which the
5 generally applicable payment date is after December 31,
6 1985.

7 **SEC. 505. TEMPORARY INCREASE IN PENSION BENEFIT GUAR-**
8 **ANTY CORPORATION PREMIUMS FOR SINGLE**
9 **EMPLOYER PLANS.**

10 (a) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of
11 the Employee Retirement Income Security Act of 1974 is
12 amended by inserting “(\$8.00 for plan years beginning after
13 December 31, 1985, and before January 1, 1989)” after
14 “\$2.60”.

15 (b) TECHNICAL AMENDMENTS.—

16 (1) Clause (iii) of section 4006(a)(3)(C) of such Act
17 is amended by striking out “The maximum” and in-
18 serting in lieu thereof “In the case of a multiemployer
19 plan, the maximum”.

20 (2) Clause (iv) of section 4006(a)(3)(C) of such Act
21 is amended by striking out “The provisions” and in-
22 serting in lieu thereof “In the case of a multiemployer
23 plan, the provisions”.

1 (c) EFFECTIVE DATE.—The amendments made by this
2 section shall apply to plan years beginning after December
3 31, 1985.

4 **TITLE VI—AMENDMENTS RELAT-**
5 **ING TO SINGLE EMPLOYER**
6 **PLANS**

7 **SEC. 601. EXCISE TAX ON UNPAID LIABILITY TO PENSION**
8 **PLAN AT PLAN TERMINATION.**

9 (a) IN GENERAL.—Chapter 43 of the Internal Revenue
10 Code of 1954 (relating to qualified pension, etc., plans) is
11 amended by adding at the end thereof the following new sec-
12 tion:

13 **SEC. 4979. TAX ON UNPAID EMPLOYER LIABILITY TO PENSION**
14 **PLAN AT PLAN TERMINATION.**

15 “(a) INITIAL TAX.—

16 “(1) IN GENERAL.—In the case of an employer
17 who maintains a plan to which section 4062 of the
18 Employee Retirement Income Security Act of 1974
19 applies, there is hereby imposed a tax equal to 5 per-
20 cent of the portion of any required payment which is
21 not paid on the date such payment is required.

22 “(2) REQUIRED PAYMENT.—For purposes of this
23 section, the term ‘required payment’ means, with re-
24 spect to any date, the portion of the termination liabil-
25 ity of the employer which is required to be paid on

1 such date pursuant to section 4062 of the Employee
2 Retirement Income Security Act of 1974 plus interest
3 on such portion at the adjusted rate applicable under
4 section 6621(b).

5 “(b) ADDITIONAL TAX WHERE LIABILITY REMAINS
6 UNPAID.—

7 “(1) IN GENERAL.—If any required payment re-
8 mains unpaid as of the close of the 90-day period be-
9 ginning on the date such payment is required, the tax
10 imposed by subsection (a) shall be increased by—

11 “(A) 5 percent of the portion of such pay-
12 ment which is unpaid as of the close of such 90-
13 day period, and

14 “(B) an additional 5 percent of the portion of
15 such payment which is unpaid as of the close of
16 each 30-day period thereafter.

17 “(2) LIMITATION ON ADDITIONAL TAX.—The
18 amount of the additional tax imposed by reason of this
19 subsection with respect to any required payment shall
20 not exceed the portion of such payment which is not
21 paid before the close of the 90-day period beginning on
22 the date such payment is required.

23 “(c) TERMINATION LIABILITY.—For purposes of this
24 section—

1 “(1) IN GENERAL.—The term ‘termination liability’ means the excess of—

3 “(A) the current value of the plan’s benefits
4 guaranteed under title IV of the Employee Retirement Income Security Act of 1974 on the date
5 of termination, over

7 “(B) the current value of the plan’s assets allocable to such benefits on the date of termination.
9

10 For purposes of subparagraph (B), the current value of
11 the plan’s assets shall be determined without regard to
12 any receivable which is attributable to any accumulated funding deficiency.
13

14 “(2) LIMITATION ON LIABILITY WHERE EMPLOYER CEASES TO EXIST.—

16 “(A) IN GENERAL.—In the case of an employer which ceases to exist (and with respect to
17 which no other person is liable under section
18 4062 of the Employee Retirement Income Security Act of 1974 for the liability under such section
19 of such employer), the excess of—
20

22 “(i) the amount of the termination liability under paragraph (1) (determined without
23 regard to this paragraph), over
24

1 “(ii) the accumulated funding deficiency
2 (if any) as of the date of termination,
3 shall not exceed 30 percent of the net worth of
4 the employer.

5 “(B) DETERMINATION OF NET WORTH.—
6 For purposes of subparagraph (A), the determina-
7 tion of the net worth of the employer shall be
8 made—

9 “(i) as of a day, chosen by the Pension
10 Benefit Guaranty Corporation but not more
11 than 120 days before the date of termination,
12 and

13 “(ii) without regard to any liability
14 under section 4062 of the Employee Retirement
15 Income Security Act of 1974.

16 “(3) RULES RELATING TO ACCUMULATED FUND-
17 ING DEFICIENCY.—For purposes of this subsection—

18 “(A) WAIVED FUNDING DEFICIENCY IN-
19 CLUDED IN ACCUMULATED FUNDING DEFICIEN-
20 CY.—The accumulated funding deficiency of an
21 employer shall include the amount of any waived
22 funding deficiency (as defined in section 412(d)(3))
23 of such employer.

24 “(B) ACCUMULATED FUNDING DEFICIEN-
25 CY.—The term ‘accumulated funding deficiency’

has the meaning given such term by the last 2 sentences of section 412(a).

“(4) COORDINATION WITH DETERMINATION OF LIABILITY UNDER SECTION 4062 OF ERISA.—Subtitle D of title IV of the Employee Retirement Income Security Act of 1974 shall apply for purposes of determining termination liability under this subsection.

“(d) CREDIT AGAINST ADDITIONAL TAX.—There shall be allowed as a credit against the tax imposed by this section with respect to any termination liability an amount equal to the lesser of—

“(1) the amount paid, not later than 2 years after the date of final determination, to the Pension Benefit Guaranty Corporation with respect to such liability, or

“(2) the amount of the tax imposed by reason of subsection (b).

“(e) SPECIAL RULES.—For purposes of this section—

“(1) LIABILITY ONLY AFTER FINAL DETERMINATION.—The tax imposed by this section shall apply to any termination liability only after a final determination of the amount of such liability.

“(2) LIABILITY OF CONTROLLED GROUP.—

“(A) IN GENERAL.—Any liability under this section of any member of a controlled group shall

1 be a joint and several liability of all members of
2 such group.

3 “(B) CONTROLLED GROUP.—For purposes of
4 subparagraph (A), the term ‘controlled group’
5 means all persons who are treated as a single em-
6 ployer under subsection (b), (c), (m), or (o) of sec-
7 tion 414.

8 “(3) TITLE 11 AND SIMILAR CASES.—In the case
9 of an employer which is in a title 11 or similar case (as
10 defined in section 368(a)(3)(A))—

11 “(A) the date such case begins shall be treat-
12 ed as the date of the final determination, and

13 “(B) the period of the pendency of such case
14 shall be substituted for the 2-year period described
15 in subsection (d)(1).

16 “(4) REFERENCES TO ERISA.—For purposes of
17 this section—

18 “(A) except as provided in subparagraph (B),
19 any reference to a provision of the Employee Re-
20 tirement Income Security Act of 1974 shall be
21 treated as a reference to such provision as in
22 effect on the date of the enactment of this section,
23 and

24 “(B) for purposes of subsection (a), section
25 4062 of such Act shall be treated as applying to a

1 plan if such section would have applied to such
2 plan as such section was in effect on such date of
3 enactment.”

4 (b) LIABILITY UNDER SECTION 4062 OF ERISA TO
5 BE JOINT AND SEVERAL AMONG MEMBERS OF CON-
6 TROLLED GROUP.—

7 (1) IN GENERAL.—Section 4062 of the Employee
8 Retirement Income Security Act of 1974 (relating to
9 liability of employer) is amended by adding at the end
10 thereof the following new subsection:

11 “(f)(1) Any liability under subsection (a) of any member
12 of a controlled group shall be a joint and several liability of
13 all members of such group.

14 “(2) For purposes of paragraph (1), the term ‘controlled
15 group’ means all persons who are treated as a single employ-
16 er under subsection (b), (c), (m), or (o) of section 414 of the
17 Internal Revenue Code of 1954.”

18 (2) TECHNICAL AMENDMENT.—Paragraph (2) of
19 section 404(g) of the Internal Revenue Code of 1954
20 (relating to certain employer liability payments consid-
21 ered as contributions) is amended by striking out “sub-
22 section (b) or (c)” and inserting in lieu thereof “subsec-
23 tion (b), (c), (m), or (o)”.

24 (c) NET WORTH LIMITATION ON LIABILITY OF EM-
25 PLOYER TO APPLY ONLY WHERE EMPLOYER GOES OUT

1 OF BUSINESS.—Subsection (b) of section 4062 of the Em-
2 ployee Retirement Income Security Act of 1974 is amended
3 to read as follows:

4 “(b)(1) Any employer to which this section applies shall
5 be liable to the corporation in an amount equal to the excess
6 of—

7 “(A) the current value of the plan’s benefits guar-
8 anteed under this title on the date of termination, over

9 “(B) the current value of the plan’s assets alloca-
10 ble to such benefits on the date of termination.

11 For purposes of subparagraph (B), the current value of the
12 plan’s assets shall be determined without regard to any re-
13 ceivable which is attributable to any accumulated funding de-
14 ficiency.

15 “(2)(A) In the case of an employer which ceases to exist
16 (and with respect to whose liability under this section no
17 other person is liable), the excess of—

18 “(i) the amount of the liability under paragraph
19 (1) (determined without regard to this paragraph), over

20 “(ii) the accumulated funding deficiency (if any) as
21 of the date of termination,

22 shall not exceed 30 percent of the net worth of the employer.

23 “(B) For purposes of subparagraph (A), the determina-
24 tion of the net worth of the employer shall be made—

1 “(i) as of a day, chosen by the corporation but not
2 more than 120 days before the date of termination, and

3 “(ii) without regard to any liability under this sec-
4 tion.

5 “(3) For purposes of this subsection—

6 “(A) the accumulated funding deficiency of an em-
7 ployer shall include the amount of any waived funding
8 deficiency (as defined in section 412(d)(3) of the Inter-
9 nal Revenue Code of 1954) of such employer, and

10 “(B) the term ‘accumulated funding deficiency’
11 has the meaning given such term by the last 2 sen-
12 tences of section 412(a) of such Code.”

13 (d) PBGC MUST OFFER OPTIONS TO PAY LIABILITY
14 OVER 5 AND 15 YEARS.—Section 4067 of the Employee
15 Retirement Income Security Act of 1974 is amended—

16 (1) by inserting “(a)” before “The corporation”,
17 and

18 (2) by adding at the end thereof the following:

19 “(b) Among the options offered by the corporation shall
20 be—

21 “(1) a 5-year amortization of the liability, and

22 “(2) a 15-year amortization of the liability.

23 If the employer has not ceased business and if the corporation
24 deems that to do so will not jeopardize the collection of the

1 liability, no security shall be required in the case of the 5-
2 year amortization of the liability.

3 “(c) In any deferred payment arrangement under this
4 section, interest from the date of termination shall be charged
5 at the adjusted rate applicable under section 6621(b) of the
6 Internal Revenue Code of 1954.”

7 (e) DEDUCTION FOR EMPLOYER LIABILITY PAYMENTS
8 TO PBGC.—Subsection (g) of section 404 of the Internal
9 Revenue Code of 1954 (relating to certain employer liability
10 payments considered as contributions) is amended by insert-
11 ing “(as such sections and part were in effect on the date of
12 the enactment of this parenthetical material)” after “1974”.

13 (f) CLERICAL AMENDMENT.—The table of sections for
14 chapter 43 of such Code is amended by adding at the end
15 thereof the following new item:

“Sec. 4979. Tax on unpaid employer liability to pension plan at plan
termination.”

16 (g) EFFECTIVE DATES.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), the amendments made by this section shall
19 apply to terminations with respect to which notification
20 is filed with the Pension Benefit Guaranty Corporation
21 after the date of the enactment of this Act.

22 (2) DEDUCTION FOR EMPLOYER PAYMENTS.—

23 The amendment made by subsection (e) shall apply to

1 taxable years ending after the date of the enactment of
2 this Act.

3 **SEC. 602. SECURITY FOR WAIVERS OF MINIMUM FUNDING**
4 **STANDARD AND EXTENSIONS OF AMORTIZA-**
5 **TION PERIOD.**

6 (a) AMENDMENTS TO THE EMPLOYEE RETIREMENT
7 INCOME SECURITY ACT OF 1974.—

8 (1) IN GENERAL.—Part 3 of subtitle B of title I
9 of the Employee Retirement Income Security Act of
10 1974 is amended—

11 (A) by redesignating section 306 (29 U.S.C.
12 1086) as section 307; and

13 (B) by inserting after section 305 (29 U.S.C.
14 1085) the following new section:

15 “SECURITY FOR WAIVERS OF MINIMUM FUNDING
16 STANDARD AND EXTENSIONS OF AMORTIZATION PERIOD

17 “SEC. 306. (a) IN GENERAL.—Except as provided in
18 subsection (c), the Secretary of the Treasury may require se-
19 curity to a single-employer plan as a condition for granting or
20 modifying a waiver of the minimum funding standard with
21 respect to such plan under section 303 of this Act or section
22 412(d) of the Internal Revenue Code of 1954 or an extension
23 of an amortization period with respect to such plan under
24 section 304 of this Act or section 412(e) of such Code. The
25 providing of such security to the plan in accordance with this
26 section shall not be considered an extension of credit for pur-

1 poses of part 4 of this subtitle or section 4975 of such Code.
2 Such security may be perfected and enforced only by the
3 Pension Benefit Guaranty Corporation or by the employer
4 acting at the direction of the Corporation.

5 “(b) CONSULTATION WITH THE PENSION BENEFIT
6 GUARANTY CORPORATION.—Except as provided in subsec-
7 tion (c), before granting or modifying a waiver of the mini-
8 mum funding standard with respect to a single-employer plan
9 under section 303 of this Act or section 412(d) of the Internal
10 Revenue Code of 1954 or an extension of the amortization
11 period with respect to such plan under section 304 of this Act
12 or section 412(e) of such Code, the Secretary of the Treasury
13 shall provide the Pension Benefit Guaranty Corporation
14 notice of the proposed waiver, modification, or extension and
15 15 days to comment with respect to such waiver, modifica-
16 tion, or extension and shall consider any comments of such
17 Corporation relating to such waiver, modification, or exten-
18 sion which are provided to such Secretary during such
19 period.

20 “(c) EXCEPTION.—The requirements of subsections (a)
21 and (b) shall not apply in the case of any waiver, modifica-
22 tion, or extension referred to in such subsections with respect
23 to a plan if the sum of—

24 “(1) the outstanding balance of the accumulated
25 funding deficiencies (within the meaning of section

302(a)(2) of this Act and section 412(a) of the Internal Revenue Code of 1954) of the plan (which, for purposes of this paragraph, shall include the amount of any increase in such accumulated funding deficiencies of the plan which would result if all applications for waivers and modifications of the minimum funding standard under section 303 of this Act or 412(d) of such Code and for extensions of the amortization period under such section 304 of this Act or 412(e) of such Code which are pending with respect to such plan were denied),

“(2) the outstanding balance of the amount of waived funding deficiencies of the plan waived under section 303 of this Act or section 412(d) of such Code, and

“(3) the outstanding balance of the amount of decreases in the minimum funding standard allowed under section 304 of this Act or section 412(e) of such Code,

is less than \$1,000,000.”

(2) CLERICAL AMENDMENT.—The table of sections in section 1 of such Act is amended by striking out the item relating to section 306 and inserting in lieu thereof the following new items:

“Sec. 306. Security for waivers of minimum funding standard and extensions of amortization period.

“Sec. 307. Effective dates.”.

1 (b) AMENDMENTS TO THE INTERNAL REVENUE CODE
 2 OF 1954.—Subsection (f) of section 412 of the Internal Rev-
 3 enue Code of 1954 (relating to requirement that benefits may
 4 not be increased during waiver or extension period) is
 5 amended—

6 (1) by striking out “BENEFITS MAY NOT BE IN-
 7 CREASED DURING WAIVER OR EXTENSION
 8 PERIOD.—” and inserting in lieu thereof “REQUIRE-
 9 MENTS RELATING TO WAIVERS AND EXTEN-
 10 SIONS.—”;

11 (2) in paragraph (1), by striking out “IN GENER-
 12 AL.—” and inserting in lieu thereof “BENEFITS MAY
 13 NOT BE INCREASED DURING WAIVER OR EXTENSION
 14 PERIOD.—”; and

15 (3) by adding at the end thereof the following new
 16 paragraph:

17 “(3) SECURITY FOR WAIVERS AND EXTEN-
 18 SIONS.—

19 “(A) IN GENERAL.—Except as provided in
 20 subparagraph (C), the Secretary may require se-
 21 curity to a single-employer plan as a condition for
 22 granting or modifying a waiver of the minimum
 23 funding standard with respect to such plan under
 24 subsection (d) or an extension of an amortization
 25 period with respect to such plan under subsection

1 (e). The providing of such security to the plan in
2 accordance with this paragraph shall not be con-
3 sidered an extension of credit for purposes of sec-
4 tion 4975 or part 4 of subtitle B of title I of the
5 Employee Retirement Income Security Act of
6 1974. Such security may be perfected and en-
7 forced only by the Pension Benefit Guaranty Cor-
8 poration or by the employer acting at the direc-
9 tion of the Corporation.

10 “(B) CONSULTATION WITH THE PENSION
11 BENEFIT GUARANTY CORPORATION.—Except as
12 provided in subparagraph (C), before granting or
13 modifying a waiver of the minimum funding stand-
14 ard with respect to a single-employer plan under
15 subsection (d) or an extension of the amortization
16 period with respect to such plan under subsection
17 (e), the Secretary shall provide the Pension Bene-
18 fit Guaranty Corporation notice of the proposed
19 waiver, modification, or extension and 15 days to
20 comment with respect to such waiver, modifica-
21 tion, or extension and shall consider any com-
22 ments of such Corporation relating to such
23 waiver, modification, or extension which are pro-
24 vided to the Secretary during such period.

1 “(C) EXCEPTION.—The requirements of sub-
2 paragraphs (A) and (B) shall not apply in the case
3 of any waiver, modification, or extension referred
4 to in such subparagraphs with respect to a plan if
5 the sum of—

6 “(i) the outstanding balance of the accu-
7 mulated funding deficiencies (within the
8 meaning of subsection (a)) of the plan (which,
9 for purposes of this clause, shall include the
10 amount of any increase in such accumulated
11 funding deficiencies of the plan which would
12 result if all applications for waivers and
13 modifications of the minimum funding stand-
14 ard under subsection (d) and for extensions of
15 the amortization period under subsection (e)
16 which are pending with respect to such plan
17 were denied),

18 “(ii) the outstanding balance of the
19 amount of waived funding deficiencies of the
20 plan waived under subsection (d), and

21 “(iii) the outstanding balance of the
22 amount of decreases in the minimum funding
23 standard allowed under subsection (e),

24 is less than \$1,000,000.”

1 (c) EFFECTIVE DATES.—The amendments made by
2 this section shall apply with respect to applications filed after
3 the date of the enactment of this Act.

4 SEC. 603. TREATMENT OF TRANSACTIONS TO EVADE LIABIL-
5 ITY.

6 (a) IN GENERAL.—Subtitle D of title IV of the Employ-
7 ee Retirement Income Security Act of 1974 is amended by
8 adding at the end thereof the following new section:

9 “TREATMENT OF TRANSACTIONS TO EVADE LIABILITY

10 “SEC. 4069. If, within 10 years before the date of ter-
11 mination, a person undertakes a transaction a principal pur-
12 pose of which is to fraudulently evade any liability to the
13 corporation, such transaction shall not be treated as transfer-
14 ring such liability (or any portion thereof) away from such
15 person or any member of a controlled group which included
16 such person.”

17 (b) CLERICAL AMENDMENT.—The table of sections in
18 section 1 of such Act is amended by adding after the item
19 relating to section 4068 the following new item:

“Sec. 4069. Treatment of transactions to evade liability.”.

20 (c) EFFECTIVE DATE.—The amendments made by this
21 section shall apply to transactions after the date of the enact-
22 ment of this Act.

23 SEC. 604. STUDY OF RISK RELATED PREMIUM.

24 The Secretary of the Treasury shall conduct a study on
25 the feasibility of imposing a risk related premium under title

1 IV of the Employee Retirement Income Security Act of
2 1974 which is based on the different risk exposures imposed
3 on the Pension Benefit Guaranty Corporation by employers
4 with different histories and in different circumstances. The
5 results of such study shall be submitted, not later than 2
6 years after the date of the enactment of this Act, to the Com-
7 mittee on Ways and Means and the Committee on Education
8 and Labor of the House of Representatives and the Commit-
9 tees on Finance and Labor and Human Resources of the
10 Senate.

Passed the House of Representatives October 31,
1985.

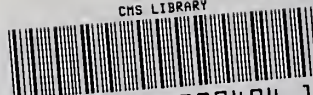
Attest:

BENJAMIN J. GUTHRIE,

Clerk.

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